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Attorneys for Continental Savings Bank

U.S. COURTS

98 NOV 18 AM 11:29

REC'D FILED  
CAMERON S. BURKE  
CLERK IDAHO

for  
Pd

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO

In re:

CASCADE BUILDERS-DEVELOPERS,  
INC.,

Debtor,

Chapter 11

Case No. 98-00476

MOTION FOR RELIEF  
FROM AUTOMATIC STAY

Under § 362 and Bankruptcy Rule 4001, Continental Savings Bank

the undersigned counsel, moves the court for an order lifting the

the two properties identified below. In support of this motion,

s:

Chapter 11 bankruptcy petition on February 18, 1998.

secured claims against the Debtor arising out of two construction

ans was secured to property through a Trust Deed executed by the

arty as the beneficiary.

AUTOMATIC STAY - 1

3. Attached as Exhibits A1-A4 are true and correct copies of: (1) Short Form Construction Loan Agreement; (2) Adjustable Rate Promissory Note; (3) Trust Deed; and (4) Payment Ledger, all related to Loan No. 156562-I, which obligation is secured to the following property:

Lot 3, Block 125, Griffith and King's Addition to Nampa, Canyon County, Idaho, according to the plat filed in Book 1 of Plats, page 10, record of Canyon County, Idaho.

The Debtor is in default under the said Construction Loan Agreement for which the following are past due:

Principal	\$52,000.00
Accrued Interest	1,716.50
Late Fees	151.45
Estimated Attorney Fees to Date	<u>750.00</u>
Total Amount Due:	\$54,617.95

4. Attached as Exhibit B1-B4 are true and correct copies of: (1) Short Form Construction Loan Agreement; (2) Adjustable Rate Promissory Note; (3) Trust Deed; and (4) Payment Ledger, related to Loan No. 156565-I, which obligation is secured to the following property:

See Exhibit A to the Trust Deed (attached Exhibit B3), incorporated by reference herein.

The Debtor is in default under said Construction Loan Agreement for which the following are past due:

Principal	\$63,600.00
Accrued Interest	2,015.18
Late Fees	126.64
Estimated Attorney Fees to Date	<u>750.00</u>
Total Amount Due:	\$66,491.82

5. The Secured Party does not have, and has not been offered, adequate protection for its interest in the real property described above. The Secured Party has no evidence that the Debtor is

maintaining insurance on the properties or is otherwise preserving and protecting the collateral. The Secured Party will suffer irreparable harm, loss, and damage if it is not permitted to enforce its security interest in the real property collateral.

6. The Debtor has no equity in the real property collateral and the property is not necessary for an effective reorganization under Chapter 11.

WHEREFORE, Secured Party prays that the court enter an order pursuant to 11 USC § 362 to permit the Secured Party to enforce its security interest in the collateral with such other relief as the court may deem just.

**NOTICE OF LOCAL BANKRUPTCY  
RULE 4001.2(d)(1) and 11 USC § 362(e)**

L.B.R. 401.2(d)(1). YOU ARE HEREBY NOTIFIED that a party in interest may oppose the above motion by filing with the court and serving on the undersigned a written objection thereto at least five (5) days prior to any preliminary hearing. The objection must reasonably identify those matters contained in the motion which are to be at issue, and any other basis for opposition to the motion. It shall be the responsibility of a party opposing the above motion to see that the preliminary hearing required under 11 U.S.C. § 362(e), as described below, is set by the calendar clerk of the bankruptcy court with notice of such hearing to the undersigned.

11 U.S.C. § 362(e). YOU ARE FURTHER NOTIFIED that pursuant to 11 U.S.C. § 362(e) the stay of 11 U.S.C. § 362(a) will vacate thirty (30) days from the date of service of this motion unless the Court, after notice and a preliminary hearing, and within said thirty day period, orders the stay continued in effect pending a final hearing and determination under 11 U.S.C. § 362(d). You are further notified that in the event an order continuing the stay is not entered within thirty (30) days from the date this motion is served, that the Court may enter an order without further notice to you lifting the stay as requested in this motion. Any hearing must be upon notice to the undersigned and set by the calendar clerk of the Bankruptcy Court.

DATED this 18 day of November, 1998.

EVANS, KEANE LLP

By Jed W. Manwaring  
Jed W. Manwaring, Of the Firm  
Attorneys for Continental

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18 day of November, 1998, a true and correct copy of the foregoing document was served by first-class mail, postage prepaid, and addressed to; by fax transmission to; by overnight delivery to; or by personally delivering to or leaving with a person in charge of the office as indicated below:

Cascade Builders-Developers, Inc.  
2017 N. Midland Blvd.  
Nampa, ID 83651

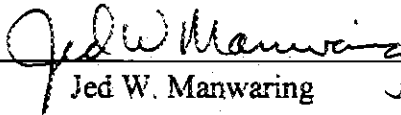
☒ U.S. Mail  
☐ FAX  
☐ Overnight Delivery  
☐ Hand Delivery

D. Blair Clark  
Ringert Clark  
P. O. Box 2773  
Boise, ID 83701-2773

☒ U.S. Mail  
☐ FAX  
☐ Overnight Delivery  
☐ Hand Delivery

U.S. Trustee  
P.O. Box 110  
Boise, ID 83701

☒ U.S. Mail  
☐ FAX  
☐ Overnight Delivery  
☐ Hand Delivery

  
Jed W. Manwaring

Loan No. 156562-I

**SHORT FORM  
CONSTRUCTION LOAN AGREEMENT  
(Project Specific Conditions and Terms)**

THIS AGREEMENT dated June 18, 1997, is made by and among Cascade Builders-Developers Inc. (collectively, if more than one individual or entity, the "Borrower"), CONTINENTAL SAVINGS BANK, d/b/a CONTINENTAL HOME LENDING CENTER, a Washington state chartered savings and loan association, ("Lender"), and any third-party general contractor signing below ("General Contractor").

**RECITALS**

Lender has agreed to lend to Borrower certain funds (the "Loan") for the purpose set forth below. The parties hereto wish to define certain of their rights and obligations with respect to the Loan and to set forth the terms and conditions of the Loan.

**AGREEMENTS**

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and in all other documents evidencing or securing the Loan, the parties hereto agree as follows:

1. Purpose. This loan is made for the purpose set forth on Exhibit A attached hereto and incorporated herein by this reference, including financing certain construction on the real property legally described on Exhibit B attached hereto (the "Property") in accordance with the plans and specifications approved by Lender (the "Plans"). The Property and the improvements to be constructed thereon in accordance with the Plans shall be referred to herein as the "Project."
2. Standard Conditions to Closing and General Loan Terms. Borrower and General Contractor acknowledge that they have received and reviewed a copy of the Standard Conditions to Closing and General Loan Terms of the revision date set forth in Exhibit A (the "Standard Conditions and Terms"). By execution and delivery of this Loan Agreement, all provisions of the Standard Conditions and Terms, except for such provisions of the Standard Conditions and Terms as are specifically excluded or modified herein or are otherwise in conflict with the provisions of the other documents evidencing, securing, or otherwise governing the Loan (together with the Loan Agreement, the "Loan Documents"), in which case, the specific terms of such documents shall apply, are hereby incorporated herein by this reference and made an integral part hereof for all purposes as though fully set forth herein and Borrower and General Contractor hereby make such covenants and agree to fully perform in accordance with the provisions of the Standard Conditions and Terms.
3. Guarantor(s). Borrower's obligations under the loan are guaranteed by each individual and/or entity listed as a guarantor on Exhibit A.
4. Loan Amount. See Exhibit A.
5. Loan Fee. In consideration for Lender's agreement to make the Loan, Borrower shall pay Lender a non-refundable Loan Fee in the amount set forth on Exhibit A. The Loan Fee shall be due and payable in full whether or not the Loan ever closes. Borrower shall pay the Loan Fee from the proceeds of

the Loan unless the Loan fails to close, in which case the Loan Fee shall be due and payable directly by Borrower on the next day following the Deadline For Closing set forth on Exhibit A.

6. Loan Term.

6.1 Initial Term. The initial term of the Loan shall be that period of time set forth on Exhibit A and shall commence upon the date of the first disbursement by Lender of proceeds of the Loan (the "Funding Date").

6.2 Extended Term. So long as Borrower is in full compliance with the terms and conditions of this Agreement and of all other documents evidencing or securing the Loan, Borrower may elect to extend the term of the Loan as set forth on Exhibit A. Borrower shall provide Lender with written notice of Borrower's election to extend not later than thirty (30) days prior to the expiration of the Initial Term or any prior extended term and, at the time of such notice, shall pay Lender an extension fee for each such extension that is that percent set forth on Exhibit A of the Lot Amount, also set forth on Exhibit A, for each lot comprising the Property that remains subject to Lender's deed of trust.

7. Interest Rate. Interest shall accrue on the outstanding principal balance of the Loan at a per annum interest rate (the "Note Rate") that is that percent set forth on Exhibit A above the interest rate announced from time to time as the large business prime lending rate of Bank of America NW, N.A., doing business as Seafirst Bank, or such other lending institution as Lender shall select prior to the Funding Date (the "Prime Rate"). The Note Rate shall be adjusted automatically from time to time as of the effective date of any change in the Prime Rate.

7.1 Default. Upon the occurrence of any Event of Default as defined in the Standard Conditions and Terms, the interest rate on the outstanding principal balance of the Loan shall increase to the greater of (a) five percent (5%) per annum above the Note Rate or (b) eighteen percent (18%) per annum.

7.2 Late Charge. Lender shall be entitled to a late charge equal to six percent (6%) of the amount of any payment not received by the fifteenth (15th) day after the day on which such payment first became due.

8. Completion of Project. The Project shall be completed in accordance with the Conditions and Standard Terms and all residences to be constructed on the Property shall be ready for occupancy within the time period following the Funding Date set forth on Exhibit A.

9. Lot Releases. Upon completion of construction of any residential lot as evidenced by the issuance of an appropriate certificate of occupancy, and in the absence of a default by Borrower on any of Borrower's obligations under this Loan Agreement, any of the other Loan Documents, or any document evidencing or securing any other loan from Lender to Borrower, Borrower shall, subject to the terms and provisions of the Deed of Trust, be entitled to a reconveyance of the Deed of Trust as against such lot upon Borrower's payment of (a) all unpaid accrued interest, fees, and expenses owing on the Loan or on any other loan from Lender to Borrower to the date of such reconveyance, and (b) an amount equal to the greater of the applicable Lot Amount set forth on Exhibit A or eighty-five percent (85%) of the gross sales price of such lot, which payments shall be credited to amounts outstanding under the applicable loans.

10. Security for the Loan. The Loan shall be secured by the Property and such additional personal and real property as is set forth in the Deed of Trust or on Exhibit A.

11. Conditions to Closing. Lender's obligation to close the Loan and make any disbursements hereunder shall be subject to the satisfaction, at Borrower's sole cost and expense, of each of the conditions to closing set forth in the Standard Conditions and Terms, together with such additional conditions to closing as may be set forth in Exhibit C attached hereto and incorporated herein by this reference, on or before the Funding Date and prior to each disbursement of proceeds of the Loan, or as otherwise required herein.

12. Additional General Loan Terms. Borrower shall fulfill any additional general loan terms set forth in Exhibit D attached hereto and incorporated herein by this reference.


13. Integration. This Agreement replaces in its entirety any previous commitment or other written or oral representation by Lender, its employees or agents relating to the Loan. This Agreement represents the final agreement between the parties and may not be contradicted by evidence of prior or contemporaneous written or oral agreements of the parties, and may not be subsequently modified except in writing executed by all parties. **PROMISES OR COMMITMENTS TO LEND MONEY OR EXTEND CREDIT IN AN ORIGINAL PRINCIPAL AMOUNT OF \$50,000 OR MORE BY A PERSON ENGAGED IN THE BUSINESS OF LENDING MONEY OR EXTENDING CREDIT MUST BE IN WRITING.**

I/We, the undersigned Borrower, have read this Agreement, including the related Standard Conditions and Terms, and understand and agree to all its provisions. I/We have been advised of our option to consult legal counsel regarding this and all other Loan Documents.

DATED as of the day and year first above written.

LENDER:

CONTINENTAL SAVINGS BANK, d/b/a  
CONTINENTAL HOME LENDING CENTER,  
a Washington state chartered savings  
and loan association

By   
Its Vice President

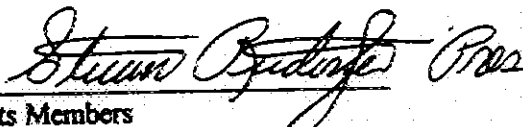
Address:

2000 Two Union Square  
601 Union Street  
Seattle, WA 98101-2326

BORROWER:

[Corporate Borrower]

Cascade Builders-Developers,  
a Corporation

By   
Its Members

[Individual Borrower]

\_\_\_\_\_  
Stuart Rudorfer

Borrower Address:

2017 N Midland Blvd. Nampa, ID. 83651

## SCHEDULE OF EXHIBITS

EXHIBIT A: Basic Loan Terms

EXHIBIT B: Legal Description

EXHIBIT C: Additional Conditions to Closing

EXHIBIT D: Additional General Loan Conditions

EXHIBIT E: Cost Breakdown

## AGREEMENT OF THIRD-PARTY GENERAL CONTRACTOR

General Contractor signs this Agreement not as a borrower or guarantor but only to acknowledge General Contractor's agreement to perform the obligations of General Contractor set forth herein and in the Standard Conditions and Terms incorporated herein by reference.

DATED this       day of       , 19      

### GENERAL CONTRACTOR:

[Corporate General Contractor]

\_\_\_\_\_

a

By \_\_\_\_\_

Its

[Individual General Contractor]

\_\_\_\_\_  
\_\_\_\_\_  
Address of General Contractor:



EXHIBIT A**BASIC LOAN TERMS**  
(Construction Loan--Idaho)

1. Loan No.: 156362-1
2. Short Statement of Purpose of Loan: To purchase, rehab and sell properties
3. Borrower(s): Cascade Builders-Developers
4. General Contractor (if other than Borrower(s)):
5. Guarantor(s): Stuart Rudorfer
6. Legal Description of Property: See Exhibit B.
7. Street Address of Property: 515 15th Avenue North, Nampa, ID. 83651
8. Loan Amount: \$52,000.00
9. Maximum Loan-to-Value Ratio: 80%
10. Loan Fee: \$650.00, 1.250% of Loan Amount
11. Interest Rate: 1% above the Prime Rate
12. Loan Term:
  - A. Initial Loan Term: 12 months
  - B. Extension of Loan Term:
    1. Number of Extensions Allowed: 1
    2. Length of Each Extension Period: 6 months
    3. Extension Fee: 1.50%
13. Time to Complete Project: 6 weeks
14. Portion of Loan Amount Available for Each Lot/Minimum Amount Required for Lot Releases ("Lot Amount"):

By Lot

N/A

\$N/A

\$

\$

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Exhibit A--page 1 of 2

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S

15. Cash Contribution by Borrower: \$417.00
16. Minimum Amount of General Casualty Insurance: \$52,000.00
17. Maximum Number of Unsold Residences Completed or Under Construction: 5.
18. Additional Security:
19. Revision Date of Standard Conditions to Closing and General Loan Terms: \_\_\_\_\_
20. Additional Conditions to Closing: See Exhibit C.
21. Additional General Loan Terms: See Exhibit D.
22. Deadline for Closing: 06/24/97

## USE OF THIS EXHIBIT

	Date:	Initials of Borrower(s)
Loan Application:	6/19/97	SR
Commitment Letter:	6/19/97	SR
Loan Agreement:	6/19/97	SR

**EXHIBIT "B"**

**Lot 3, Block 125, Griffith and Kings**

**ADJUSTABLE RATE PROMISSORY NOTE**  
(Idaho)

\$52,000.00 (U.S.)  
Loan No. 156562-1

June 18, 1997  
Boise, Idaho

FOR VALUE RECEIVED, the undersigned, Cascade Builders-Developers Inc. (collectively, if more than one individual or entity, the "Borrower"), promise(s) to pay to the order of CONTINENTAL SAVINGS BANK, d/b/a CONTINENTAL HOME LENDING CENTER, a Washington state chartered savings bank, ("Lender") at 2000 Two Union Square, 601 Union Street, Seattle, Washington 98101-2326, or such other place as Lender may from time to time designate in writing, the sum of fifty two thousand Dollars (\$52,000.00), or so much thereof as may from time to time be disbursed hereunder, in lawful money of the United States of America, together with interest on the unpaid principal balance from time to time outstanding hereunder from the date of this Note until paid at the rate set forth below.

1. Interest Rate.

1.1 Prime Rate. As used herein, the term "Prime Rate" shall mean the large business prime lending rate of interest publicly announced from time to time by Bank of America NW, N.A., doing business as Seafirst Bank ("Seafirst"). If at any time Seafirst ceases to publish or establish such a prime lending rate, there shall be substituted therefor the prime lending rate published by such other national bank with offices in Seattle, King County, Washington, as may be selected by Lender.

1.2 Note Rate. Interest shall accrue on the unpaid principal balance from time to time outstanding hereunder at an annual interest rate of two percent (2%) above the Prime Rate (the "Note Rate").

(SR) 1 1/2%

1.3 Default Rate. Should Borrower default in the payment of any installment of principal or interest when due hereunder or if Borrower defaults in the observance or performance of any other obligation hereunder or under any loan agreement or other written instrument evidencing, securing, or otherwise governing this loan (collectively the "Loan Documents"), interest shall accrue hereunder from the date of such default at an annual interest rate equal to the greater of five percent (5%) per annum above the Note Rate or eighteen percent (18%) per annum (the "Default Rate"). After the entire principal amount of the loan evidenced hereby shall become due and payable, whether by acceleration, at maturity, or otherwise, this Note shall bear interest at the Default Rate.

1.4 Computation of Interest. Interest shall be computed on the basis of a 365-day year and accrue on the basis of the actual number of days (including the first day but excluding the last day) occurring during the term of this Note, including any extensions thereof.

2. Loan Term.

2.1 Initial Term. The term of the Note shall be twelve (12) months and shall commence upon the date of the first disbursement by Lender hereunder (the "Funding Date").

EXHIBIT

A2

2.2 Extended Term. So long as Borrower is in full compliance with the terms and conditions of this Note and of all of the other Loan Documents, Borrower may elect to extend the term of this Note for up to one (1) additional period(s) of up to six (6) months each. Borrower shall provide Lender with written notice of Borrower's election to extend not later than thirty (30) days prior to the expiration of the initial term or any prior extended term and, at the time of such notice, shall pay Lender an extension fee for each such extension in the amount set forth in the Loan Documents.

3. Repayment.

3.1 Monthly Payment. Accrued interest on the unpaid principal balance outstanding hereunder shall be paid monthly commencing on the first day of the first month following the Funding Date and continuing on the first day of each succeeding month for the full term of this Note, including any extensions thereof.

3.2 Late Charge. In the event that any installment payment of interest due hereunder shall not be paid within fifteen (15) days of the date it is due, Borrower shall pay, in addition to the delinquent payment, a late charge of six cents (\$.06) for each dollar so overdue in order to defray the expense incident to handling such delinquent payment. Such late charge represents the reasonable estimate of Lender and Borrower of a fair average compensation for the costs incurred by Lender due to Borrower's failure to make timely payments. Such late charge shall be paid without prejudice to the right of Lender to collect any other amounts required to be paid hereunder, including, without limitation, interest at the Default Rate as provided in paragraph 1.3 above, or to declare a default hereunder or under any of the other Loan Documents.

3.3 Maturity. The entire outstanding principal balance of the Note and all unpaid accrued interest and other amounts owing under the Note shall be due and payable in full upon the expiration of the Loan Term.

4. Joint and Several Liability. The liability hereunder of all individuals and entities comprising Borrower shall be joint and several.

5. Prepayment. Borrower may prepay Borrower's obligations under this Note in full or in part at any time or from time to time without premium or penalty.

6. Application of Payments. Payments received by Lender from Borrower may be applied, at the sole discretion of Lender, in any order to any amounts due and owing hereunder or under any of the other Loan Documents.

7. Acceleration. Upon Borrower's failure to pay any amount payable hereunder as and when due or upon the occurrence of any other default under this Note or under any of the other Loan Documents, Lender may declare, at its sole option and without notice to any party, the entire indebtedness evidenced hereby immediately due and payable in full. Failure to exercise this option or any other right Lender may have shall not constitute a waiver of the right to exercise such option or any other right in the event of any subsequent default.

8. Costs and Fees of Collection. Borrower and every other person or entity at any time liable for the payment of the indebtedness evidenced hereby shall also be liable for all costs, expenses, and fees

incurred by Lender in collecting any amounts owing hereunder, including reasonable attorney's fees. Any judgment recovered by Lender shall bear interest at the Default Rate.

9. Waiver of Presentment. Borrower and every other person or entity at any time liable for the payment of the indebtedness evidenced hereby waive diligence, demand, presentment for payment, notice of protest, and notice of nonpayment of this Note. Every such person or entity further consents to any extension of the time of payment hereof or other modification of the terms of payment of this Note, the release of all or any part of the security for this Note, or the release of any party liable for the payment of the indebtedness evidenced hereby at any time and from time to time for any reason whatsoever. Any such extension or release may be made without notice to any of such persons or entities and without discharging their liability.

10. Security. This Note is secured by a Trust Deed, Security Agreement, Fixture Filing, and Assignment of Rents (the "Trust Deed") of even date herewith made by Borrower in favor of Lender. Borrower hereby agrees to perform and comply with all of the agreements, terms, and conditions of the Trust Deed and of all of the other Loan Documents.

11. Due on Sale. Borrower acknowledges and agrees that the obligations secured by the Trust Deed are personal to Borrower and that Borrower's personal responsibility, financial condition, and control of the property subject to the Trust Deed (the "Property") were material inducements on which Lender relied in making its loan to Borrower. Borrower shall not sell or transfer all or any portion of Borrower's interest in the Property without the prior written approval of Lender. If Borrower sells or transfers any interest without such approval, then the change in title shall be deemed to increase the risk of Lender and shall constitute a default hereunder entitling Lender to exercise any and all of its rights and remedies, including its right to accelerate the due date of all sums outstanding hereunder. Any transfer of the controlling interest in any partnership or corporate Borrower shall be deemed a transfer of Borrower's interest in the Property for purposes of this paragraph.

12. Applicable Law. This Note is made with reference to and is to be construed in accordance with the laws of the State of Idaho, without regard to that state's choice of law rules.

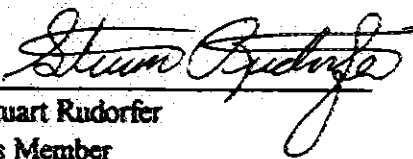
**NOTICE: PROMISES OR COMMITMENTS TO LEND MONEY OR EXTEND CREDIT IN AN ORIGINAL PRINCIPAL AMOUNT OF \$50,000 OR MORE BY A PERSON ENGAGED IN THE BUSINESS OF LENDING MONEY OR EXTENDING CREDIT MUST BE IN WRITING.**

DATED as the day and year first above written.

**BORROWER (Entity):**

**BORROWER (Individual(s)):**

Cascade Builders-Developers Inc.

By:   
Stuart Rudorfer  
Its Member

216  
9720569

Filed for record at request of,  
After recording, return to:

THIS SPACE RESERVED FOR  
RECORDER'S USE.

Continental Savings Bank  
Attn: Construction Department  
2000 Two Union Square  
601 Union Street  
Seattle, WA 98101-2326

Loan No. 156562-I 515

PN 44288

TRUST DEED, SECURITY AGREEMENT,  
FIXTURE FILING, AND ASSIGNMENT OF RENTS  
(IDAHO)

THIS TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING, AND ASSIGNMENT OF RENTS (the "Trust Deed") dated June 18, 1997, is made by and among Cascade Builders-Developers Inc. (collectively, if more than one individual or entity, the "Grantor"), whose address is 2017 N Midland Blvd. Nampa, ID. 83651-1744; Pioneer Title (the "Trustee"), whose address is 100 10th Avenue South, Nampa, ID. 83651; and CONTINENTAL SAVINGS BANK, d/b/a CONTINENTAL HOME LENDING CENTER, a Washington state chartered savings bank, (the "Beneficiary"), whose address is 2000 Two Union Square, 601 Union Street, Seattle, Washington 98101-2326.

A. Granting Clause. For good and valuable consideration, including the indebtedness described below and the trust created hereby, Grantor hereby irrevocably grants, transfers, conveys and assigns to Trustee, *in trust, with power of sale*, for the benefit and security of Beneficiary, all of Grantor's right, title, and interest in and to that certain real property located in Canyon County, State of Idaho, more particularly described on EXHIBIT A attached hereto and incorporated herein by this reference (the "Property"); together with:

A.1 After-Acquired Title. Any after-acquired title of Grantor in and to the Property and in and to land lying in streets and roads adjoining the Property;

A.2 Easements, Etc. All access rights, easements, tenements, privileges, rights, hereditaments, and appurtenances now or hereafter belonging or in any way appertaining to the Property;

A.3 Rents. The rents, issues, profits, royalties, income, and other benefits derived from the Property;

A.4 Improvements. All buildings, improvements, structures, fixtures, and articles of property now or hereafter erected on, attached to, located on, or used or intended to be used in connection with the Property; and

A.5 Additional Property and Rights. All other property or rights of any kind or nature further set forth herein;

all of which shall be deemed to be and remain a part of the Property and not severable wholly or in any part without material injury to the freehold and shall be included in any references to the Property hereunder.

B. Security Agreement. This Trust Deed shall also constitute a "Security Agreement" under the Uniform Commercial Code of the State of Idaho (the "UCC") between Grantor as debtor and Beneficiary as secured party. A photographic or other reproduction of this Trust Deed is sufficient as, and may be filed as, a financing statement under Idaho Code Section 28-9-402(1). As additional security for the performance of the obligations secured hereby, Grantor further grants and conveys to Beneficiary a

security interest and a continuing lien on the following-described property and all proceeds of such property (the "Collateral"), all of which Collateral shall be deemed a part of and shall be included in any reference to the Property hereunder:

**B.1 Property in Paragraph A.** Any of the Property described in Paragraph A above that is deemed to be personal property;

**B.2 Permits, Plans, and Contracts.** All of Grantor's right, title, and interest in all permits, approvals, commitments, designs, plans, specifications, architectural and engineering contracts, construction contracts, surveys, appraisals, listing agreements, warranties, and any and all other work product or general intangibles relating to the Property or any part thereof and now or hereafter owned by Grantor, including, without limitation, the Permits, Contracts, and Plans as defined in paragraph 2 below and any and all rights or claims that relate to the construction of improvements on or to the Property that Grantor may have against any person or entity supplying, or who has supplied, labor, materials, or services in connection with the construction of improvements on the Property;

**B.3 Rights Under Covenants.** All of Grantor's rights under any declarations of covenants, conditions, and restrictions recorded for the Property, including all of Grantor's rights and powers to elect or select officers and directors for any Homeowners' Association established for the Property;

**B.4 Insurance; Eminent Domain.** All of Grantor's rights under any and all contracts and policies of insurance with respect to the Property and to any and all awards made in connection with any eminent domain or condemnation proceedings, or purchases in lieu thereof, of the whole or any part of the Property;

**B.5 Rights of Sale.** All of Grantor's right, title, and interest in any contracts or agreements of sale with respect to the Property, all purchase money indebtedness to Grantor related to any sale, and any cash proceeds of such sale;

**B.6 Accounts with Beneficiary.** All accounts maintained by Grantor with Beneficiary or any subsidiary or affiliate of Beneficiary;

**B.7 Improvement, Fixtures, Etc.** All improvements, fixtures, equipment, furnishings, appliances, machinery, apparatus, goods, construction materials, and other articles of personal property owned by Grantor and now or hereafter affixed to, placed upon, or used in connection with the Property, including, but not limited to, any structures constructed on the Property, all pipes for water and sewer lines, cables, electrical wires for power systems, and construction materials, and any and all replacements and improvements thereof;

**B.8 Other Property.** Any and all other property or rights of any kind or nature further identified herein or in any UCC financing statement filed in connection herewith; and

**B.9 Proceeds.** Any and all interest and estate that Grantor or Grantor's assigns may hereafter acquire in any of the above Property and all the rents, issues, proceeds, products, and profits of such Property.

**C. Fixture Filing.** It is intended that the recording of this Trust Deed shall be effective as a "fixture filing" under Idaho Code Section 28-9-402(6) with respect to any and all fixtures included within the Collateral and all goods or personal property that are now or may hereafter become affixed to the Property, and the Trust Deed is to be filed and indexed in the real estate records not only as a trust deed, but also a fixture filing.



D. **Obligations Secured.** This Trust Deed is given for the purpose of and does secure the following obligations:

D.1 **Promissory Note.** Payment of the maximum principal amount of \$52,000.00 (or so much thereof as may have been advanced by Beneficiary from time to time), with interest, in accordance with the terms of the Adjustable Rate Promissory Note of even date herewith payable to or to the order of Beneficiary and made by Grantor (the "Note"), and all renewals, modifications, and extensions thereof, and any judgment rendered on the Note or any renewals thereof or substitutions therefor, which note will mature on 12 months from date of funding (subject to the exercise of any extension options), and such maturity date shall be the maturity date of this Deed of Trust for all purposes;

D.2 **Additional Obligations.** Payment of any further sums advanced or loaned by Beneficiary to Grantor or any of Grantor's successors or assigns, or otherwise owed by Grantor to Beneficiary, together with interest thereon, if such sums, including costs and expenses incurred by Beneficiary, are owing pursuant to this Trust Deed or any of the other documents executed by Grantor securing or otherwise relating to the Note or the loan evidenced thereby, whether executed prior to, contemporaneously with, or subsequent to this Trust Deed (this Trust Deed, the Note, and all other documents governing, securing, or otherwise relating to the Note or the loan evidenced thereby, with the exception of any Certificate and Indemnity Agreement Regarding Hazardous Substances or other environmental indemnity that by its terms is not secured hereby, are hereafter referred to collectively as the "Loan Documents"), together with interest thereon at the rate set forth in the relevant document;

D.3 **Obligations Under Loan Documents.** Performance of each agreement, term, and condition set forth or incorporated by reference in the Loan Documents; and

D.4 **Blanket Cross-Collateralization.** Every other obligation of Grantor to Beneficiary now existing or hereafter undertaken, including interest thereon at such rates as are set forth in the instruments establishing such obligations. Moreover, except as otherwise explicitly allowed by any other term of the Loan Documents establishing a right to a partial reconveyance of the Trust Deed, Beneficiary shall not be required to reconvey all or any portion of its security under the Trust Deed until all such obligations have been fully satisfied.

Grantor further covenants and agrees as follows:

1. **Assignment of Rents.** Grantor hereby assigns and transfers to Beneficiary all its rights and profits from the Property and the right, title, and interest of Grantor in and under all leases now or hereafter affecting the Property. This assignment is absolute, unconditional, and not in the nature of a security interest, it being the intention of Grantor to establish a complete and present transfer of all interests assigned hereunder with the right, but without the obligation, to collect all rents and profits of the Property. So long as Grantor is not in default hereunder, Grantor may collect assigned rents and profits as the same fall due; but, upon the occurrence of any Event of Default hereunder, all rights of Grantor to collect or receive rents and profits shall terminate. Further, all rents and profits of Grantor receivable from or in respect to the Property that Grantor shall be permitted to collect hereunder shall be received by it in trust to pay the usual and reasonable operating expenses of, and taxes upon, the Property and the sums owing Beneficiary on the obligations secured hereby. In the event of any default hereunder and the exercise by Beneficiary of its rights herein granted, Grantor agrees that payment made by tenants or occupants to Beneficiary shall be considered as though made to Grantor and in discharge of the tenants' obligations to Grantor. Nothing herein contained shall be construed as obligating Beneficiary to perform any of Grantor's covenants under any lease or rental arrangement.

2. **Assignment of Permits, Contracts, and Plans.** In addition to and without in any way derogating from the security interest granted Beneficiary in the Collateral, Grantor hereby assigns, grants,

transfers, and sets over unto Beneficiary, Grantor's right, title, and interest in, to, and under any and all permits, approvals, commitments, designs, plans, specifications, construction, architectural and engineering contracts, subcontracts, appraisals, listing agreements, and any and all other contracts for work product relating to development or construction on the Property or any part thereof, together with all amendments, modifications, supplements, revisions, and addenda thereto heretofore or hereafter prepared or executed (collectively, the "Permits, Contracts, and Plans").

**2.1 Security for Loan.** This assignment is made as additional security for the payment and performance of all of the obligations of Grantor set forth in Section D above.

**2.2 Liabilities.** Beneficiary does not assume any obligations or duties of Beneficiary under the Permits, Contracts, and Plans unless and until Beneficiary shall have been given written notice that it is exercising its right to complete or cause the completion of construction on the Property in accordance with the terms of the Loan Documents. If Beneficiary does not directly undertake to complete development or construction of the Property, Beneficiary may assign such Permits, Contracts, and Plans to, and such obligations and duties of Grantor in connection with the Permits, Contracts, and Plans shall be assumed by, the person or entity designated by the Beneficiary for the purpose of completing such development or construction, and Beneficiary shall have no liability whatsoever for the performance of any such obligations and duties.

**2.3 Representations and Warranties of Grantor.** Grantor represents and warrants to Beneficiary that:

**2.3.1 No Prior Assignments.** There have been no prior assignments of its rights, title, and interest in, to, and under the Permits, Contracts, and Plans;

**2.3.2 Authority.** Grantor has full power and authority to assign its rights, title, and interest in, to, and under the Permits, Contracts, and Plans to Beneficiary and no consents or approvals of any other person or entities are necessary in order for Grantor to validly execute, deliver, and perform this assignment;

**2.3.3 No Defaults or Modifications.** All covenants, conditions, and agreements set forth in the Permits, Contracts, and Plans have been performed as required as of the date hereof and neither Grantor nor any other party is in default thereunder. Grantor shall not amend or modify any of the terms and conditions of the Permits, Contracts, and Plans without the prior written approval of Beneficiary, nor shall Grantor assign, transfer, mortgage, or otherwise convey or encumber any of its rights, title, or interest in, to, or under the Permits, Contracts, and Plans so long as any of Grantor's obligations under the Loan Documents remain unfulfilled.

**2.4 Attorney-in-Fact.** Grantor hereby irrevocably constitutes and appoints Beneficiary as its attorney-in-fact, upon the occurrence of any defaults hereunder or under any of the other Loan Documents, to demand, receive, and enforce any and all of Grantor's rights under and with respect to the Permits, Contracts, and Plans, and to perform any and all acts with respect to the Permits, Contracts, and Plans that Beneficiary deems necessary or desirable with the same force and effect as if performed by Grantor in the absence of this assignment.

**2.5 Assignment for Security.** This assignment is for security purposes only. Beneficiary shall have no right pursuant to this assignment to enforce Grantor's rights with respect to the Permits, Contracts, and Plans until Grantor shall be in default under any of its obligations to Beneficiary pursuant to this Trust Deed or any of the other Loan Documents. On the occurrence of any such default, Beneficiary, without effecting any of its rights or remedies against Grantor under any other instrument, document, or assignment, may exercise its rights under this assignment or in any other manner permitted by

applicable law, and in addition, Beneficiary shall have and possess, without limitation, any and all rights and remedies of a secured party under the UCC or as otherwise provided by law.

2.6 Indemnity. Grantor shall indemnify and hold Beneficiary harmless from and against any and all claims, demands, liabilities, losses, lawsuits, judgments, damages, costs and expenses, including, without limitation, attorneys' fees and costs, to which Beneficiary may be exposed or which Beneficiary may incur in exercising any of its rights under this assignment.

3. Nature of Property/Remedies. Grantor and Beneficiary agree that the filing of a financing statement in the records having to do with personal property in connection with the Security Agreement provided herein shall never be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Property and all components thereof are, to the maximum extent possible, real property, subject to Beneficiary's right on default to exercise, in any manner permitted by applicable law, those remedies (a) available to Beneficiary under this Trust Deed, (b) available to Beneficiary as a secured party under the provisions of the UCC, or (c) otherwise provided for by law or available in equity. Whenever Beneficiary's security shall be deemed to include personal property, Beneficiary shall be entitled to foreclose against such property in connection with and as a part of any judicial or nonjudicial proceeding against the real property secured hereby, the parties hereby acknowledging that such foreclosure constitutes a commercially reasonable method of selling such property, or, in Beneficiary's sole discretion and as permitted by applicable law, to pursue any and all other remedies afforded a secured party under the UCC or other applicable law. In case of a default hereunder, Grantor agrees to assemble all such property and make it available to the Trustee or Beneficiary as secured party at a place to be designated by such party that is reasonably convenient to all parties.

4. Representations and Warranties. To protect the security of this Trust Deed and for the benefit of Beneficiary, Grantor does, for Grantor and for Grantor's successors and assigns, represent, covenant, warrant, and agree as follows:

4.1 Warranty of Title. That Grantor has good and marketable title to an indefeasible fee simple estate in all real property described herein subject only to such liens and encumbrances, if any, specifically described herein or otherwise accepted or approved by Beneficiary in writing; that Grantor owns all of the Property described herein free from liens, security interests, and encumbrances of any kind (other than those approved in writing by Beneficiary); that Grantor is vested with the right to convey all real property described herein to Trustee for the benefit of Beneficiary; and that no consent of other parties is required as a condition thereto. Grantor does hereby and will forever warrant and defend title to the Property herein conveyed and defend the validity and priority of the lien of this Trust Deed against the claims and demands of all persons and parties;

4.2 Compliance with Idaho Code Section 45-1502(5). That, for purposes of compliance with Idaho Code Section 45-1502(5), the Property is either (a) located within an incorporated city or village as of the date hereof or (b) does not exceed twenty acres in size; and

4.3 Commercial Instrument. That this Trust Deed is and will continue to be a commercial Trust Deed and that the proceeds of the loan secured hereby will be used for business or commercial purposes other than agricultural, timber, or grazing purposes, and not for personal, family, or household purposes.

5. Maintenance and Inspection of Improvements. Grantor shall maintain the buildings and other improvements now or hereafter located on the Property in a first-class condition and state of repair. Grantor shall not commit or suffer any waste; shall promptly comply with all the requirements of federal, state, and municipal authorities and all other laws, ordinances, regulations, covenants, conditions, and restrictions respecting the Property or the use thereof, and shall pay all fees or charges of any kind in

connection therewith. Grantor shall permit Beneficiary or its agent the opportunity to inspect the Property, including the interior of any structures, at all reasonable times. Grantor shall complete or restore promptly and in a workmanlike manner any building or improvement that may be constructed, damaged, or destroyed thereon, and pay when due all costs incurred therefor.

6. **Construction.** This Trust Deed is given to secure a construction or land acquisition and development loan. Grantor agrees to commence and complete construction or development promptly and in accordance with the terms of the Loan Documents.

7. **Alterations.** No building or other improvement on the Property shall be structurally altered, removed, or demolished without Beneficiary's prior written consent, nor shall any fixture or chattel covered by this Trust Deed and adapted to the proper use and enjoyment of the Property be removed at any time without such consent unless actually replaced by an article of equal suitability, owned by the Grantor.

8. **Hazardous Use and Materials.** Grantor shall permit no hazardous or dangerous objects, materials, or products to be located on, in, or under the Property, or to be transported to or from, or generated, stored, used, or disposed of on any portion of the Property, nor permit any hazardous or dangerous use to be made of the Property, and shall keep the Property in safe condition and in full compliance with all safety, health, and environmental statutes, ordinances, and regulations. Grantor further agrees to indemnify and hold Beneficiary, its directors, officers, agents, employees, and assigns forever harmless against any and all liability, damages, losses, costs, and expenses, including without limitation attorneys' fees and costs of suit, arising prior to any transfer of the Property pursuant to foreclosure proceedings or deed in lieu thereof, and arising directly or indirectly from any such hazardous materials or dangerous objects, materials, or products, whether or not known to Grantor.

9. **Insurance.** Grantor shall continuously maintain insurance, with premiums prepaid, on all of the Property, against loss, fire, and other hazards, casualties, and contingencies as may be required from time to time by the Beneficiary in such amounts and for such period of time, with loss payable clauses (without contribution) in favor of and in form satisfactory to Beneficiary, and shall provide Beneficiary at least thirty (30) days notice prior to the expiration of any existing insurance. All insurance shall be carried in companies approved by Beneficiary. If Grantor shall fail for any reason to procure any such insurance at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on the Property, Beneficiary may procure the same at Grantor's expense. The amount collected under any fire or other insurance policy may be applied by Beneficiary to any indebtedness secured hereby and in such order as Beneficiary may determine, or, at the option of Beneficiary, the entire amounts collected, or any part thereof, may be released to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. In the event of foreclosure of this Trust Deed or other transfer of title or assignment of the Property to Beneficiary in lieu of foreclosure, all right, title, and interest of Grantor in and to all policies of insurance required by Beneficiary shall inure to the benefit of and pass to the grantee of the Property.

10. **Payment of Liens and Taxes.** Grantor shall keep the Property free from construction liens of any kind and pay all taxes, assessments, and other charges that may be levied or assessed upon or against the Property before any part of such taxes, assessments, or other charges become past due or delinquent and promptly deliver receipts therefor to Beneficiary.

11. **Defense of Property.** Grantor shall appear in and defend any suit, action, or proceeding that might affect the value of this Trust Deed, the Trust Deed itself, or the rights and powers of Beneficiary or Trustee, including, without limitation, any condemnation or public improvement proceeding, and should Beneficiary or Trustee elect also to appear and defend any such action or proceeding, be made a party to such by reason of this Trust Deed, or elect to prosecute such action as appears necessary to preserve said value, Grantor will, at all times, indemnify from and, on demand, reimburse Beneficiary or Trustee for any

and all loss, damage, expense, or cost, including cost of evidence of title and attorneys' fees, arising out of or incurred in connection with any such suit, action, or proceeding.

12. **Beneficiary Authorized to Act.** Should Grantor fail to make any payment or to do any act as herein provided, Beneficiary or Trustee may, but without obligation to do so and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereunder: (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof; (b) commence, appear in, and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (c) pay, purchase, contest, or compromise any encumbrance, charge, or lien that in the sole judgment of Beneficiary either appears to be prior or superior to this Trust Deed; and, (d) in exercising any such power, incur any liability and expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title and reasonable attorneys' fees.

13. **Condemnation Proceeds.** In the event that all or any portion of the Property is taken under the right of eminent domain or condemnation, Beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking be paid to Beneficiary and applied by it first to any reasonable costs, expenses, and attorneys' fees, both in trial and appellate courts, necessarily paid or incurred by Beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby. Grantor further agrees, at its own expense, to take such actions and execute such instruments as shall be necessary to obtain such compensation.

14. **Actions by Trustee.** From time to time upon written request by Beneficiary, payment of fees, and presentation of this Trust Deed and the Note for endorsement (in the case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting an easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; and (d) reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters of fact shall be conclusive proof of the truthfulness thereof.

15. **Non-Waiver of Defaults.** The entering upon and taking possession of the Property, the collection of rents, issues, and profits, or the proceeds of fire and other insurance policies or compensation or awards for any kind of taking or damage of the Property, and the application or release thereof as provided in this Trust Deed shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice of default. Further, by accepting payment of any sums secured hereby after their due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare the failure to pay such sums an Event of Default.

16. **Events of Default.** Each of the following circumstances shall constitute an event of default under this Trust Deed (individually, an "Event of Default").

16.1 **Default Under Loan Documents.** Default in the performance of any agreement, term, or condition set forth or incorporated by reference in any of the Loan Documents;

16.2 **Misrepresentation.** The breach of any warranty or any material inaccuracy of any representation of Grantor contained herein or in any of the other Loan Documents;

16.3 **Default on Obligations Secured by Property.** Any failure to perform any obligation that is secured by any lien against or any interest in the Property, rights, or interests encumbered hereby or any portion thereof, regardless of whether such lien or interest is prior or subordinate to the Trust Deed, and which default or failure to perform is not cured within any applicable grace period or which in any manner threatens the lien of this Trust Deed;

**16.4 Insolvency; Bankruptcy; Receivership.** Any of the following shall occur with respect to the Property, the Grantor, or any successor to the Grantor's interest in the Property: (a) the institution of any proceeding for appointment of a receiver, liquidator, or trustee; (b) the institution of any proceeding for dissolution, liquidation, or similar relief; (c) the filing of a voluntary petition for bankruptcy or reorganization; (d) the filing of an involuntary petition for bankruptcy or reorganization that is not dismissed with sixty days; or (e) Grantor is unable to pay Grantor's debts as they become due;

**16.5 Default Under Leases.** Any default by Grantor under any lease affecting the Property, any termination of such lease, or any modification, surrender, or cancellation of such lease without Beneficiary's prior written consent;

**16.6 Cross-Default.** Any default by Grantor under any obligations of Grantor to Beneficiary now existing or hereafter undertaken;

**16.7 Adverse Change.** Any material adverse change in the Property, including, without limitation, actual or threatened removal, demolition, or impairment of the Property or any improvements thereon, or

**16.8 Impact on Use of Property.** Any impending or proposed: (a) condemnation, (b) rezone, or (c) modification or enactment of any ordinances or regulations that could materially affect any improvements on the Property or the use or value thereof.

The waiver by Beneficiary of any Event of Default shall not constitute a waiver of any other or subsequent Event of Default.

**17. Acceleration Upon Default; Additional Remedies.** Upon the occurrence of any Event of Default hereunder, Beneficiary shall be entitled to declare all obligations secured hereby immediately due and payable (without presentment, demand, protest, or notice of any kind, and without regard to the adequacy of any security for the obligations secured hereby) and, whether or not the due date of such obligations is so accelerated, to exercise the following remedies in any order and manner permitted by applicable law, in addition to any other rights or remedies provided elsewhere in any of the Loan Documents or under applicable law:

**17.1 Summary Possession.** At its option, either in person or by agent, employee, or court-appointed receiver, to take possession of the Property and continue any improvement, repair, or renovation thereof at Grantor's expense and to lease the same or any part thereof, making such alterations as it finds necessary, and to terminate in any lawful manner any lease of the Property, exercising with respect thereto any rights or options available to Grantor. In addition to all of the rights and powers customarily given to and exercised by a receiver, any receiver appointed pursuant hereto shall have all of the rights and powers granted to Beneficiary hereunder in connection with the construction or repair of, maintenance of, and collection of rents and profits in connection with the Property.

**17.2 Judicial Action.** Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof. In the case of any judicial sale of the Property, or any part thereof, the Property may be sold in one or more parcels in such manner or order as the Beneficiary, in its sole discretion, may elect.

**17.3 Non-judicial Action.** Deliver to Trustee a written declaration of default and demand for sale and a written notice of default and election to cause Grantor's interest in the Property to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the official records of the county in which the Property is located.

**17.4 UCC Remedies.** Exercise any and all remedies available to a secured party under the Idaho Uniform Commercial Code.

18. **Foreclosure by Power of Sale.** Should Beneficiary elect to foreclosure by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Trust Deed and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

18.1 **Notice of Default - Nonjudicial Sale.** Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published, and delivered to Grantor such Notice of Default and Election to Sell as then required by law and by this Trust Deed. Trustee shall, without demand on Grantor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale, at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, but subject to any statutory right of Grantor to direct the order of sale if the Property consists of several known lots or parcels. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Grantor, Trustee or Beneficiary, may purchase at such sale and Grantor hereby covenants to warrant and defend the title of such purchaser or purchasers.

18.2 **Application of Sale Proceeds.** After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with the sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the default rate provided in the Note; all other obligations then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto in accordance with the law.

18.3 **Postponement of Sale.** Trustee may postpone the sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

18.4 **Request for Notice.** Grantor hereby requests a copy of any notice of default and that any notice of sale hereunder, as well as any other written notifications required by other provisions hereof, be mailed to it at the address set forth in the first paragraph of this Trust Deed.

19. **Foreclosure as Mortgage.** Should Beneficiary elect to foreclosure this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property, Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto (including costs on appeal), including reasonable attorneys' fees (and attorneys' fees on appeal), in such amount as shall be fixed by the court. Beneficiary shall be entitled to possession of the Property during any redemption period allowed under the laws of the State of Idaho.

20. **Appointment of Receiver.** If an event of default shall have occurred and be continuing, Beneficiary, as a matter of right and without notice to Grantor or anyone claiming under Grantor, and without regard to the then value of the Property or the interest of Grantor therein, shall have the right, to the extent permitted by applicable law, to apply to any court having jurisdiction to appoint a receiver or receivers of the Property, and Grantor hereby irrevocably consents to such appointment and waives notice of any application therefore. Any such receiver or receivers shall have all the usual powers and duties of Beneficiary in case of entry and shall continue as such and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated.



21. **Remedies Not Exclusive.** Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers under this Trust Deed, under any Loan Document or other agreement, or under any laws now or hereafter in force, notwithstanding some or all of the said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, trust deed, pledge, lien, guaranty, assignment or otherwise. Neither the acceptance of this Trust Deed or its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be, to the extent permitted by applicable law, entitled to enforce this Trust Deed and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, or given by any of the Loan Documents to Trustee or Beneficiary, and either of them may pursue inconsistent remedies. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right.

22. **Appointment of Successor Trustee.** Beneficiary may, for any reason permitted by law, from time to time appoint a successor or successors to any Trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Trust Deed and its place of record, which, when recorded in the office of the county clerk or recorder of the county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

23. **Duties of Trustee.** Trustee accepts this trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other trust deed or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party unless such action or proceeding is brought by Trustee.

24. **Repayment of Beneficiary's Expenditures and Advances.** Grantor shall immediately pay, without demand by Beneficiary, all sums expended or advanced hereunder or under any of the other Loan Documents, and all costs incurred by Beneficiary or Trustee in enforcing or protecting their rights or interests hereunder or under any of the other Loan Documents (including, without limitation, attorneys' fees, accountants' fees, and any other costs or expenses whatsoever), with interest from the date of any such expenditure or advance at the default rate provided in the Note, and the same shall constitute advances made under this Trust Deed and repayment thereof shall be secured hereby. If Grantor fails to pay any such expenditures, advances, costs, or expenses, together with interest thereon, Beneficiary may, in addition to the other remedies provided hereunder to the extent permitted by applicable law, at its sole discretion: (a) commence an independent action against Grantor for the recovery of such sums; and/or (b) advance any undisbursed loan proceeds to pay the same.

25. **Due on Sale.** Grantor acknowledges and agrees that the obligations secured by this Trust Deed are personal to Grantor and that Grantor's personal responsibility, financial condition, and control of the Property were material inducements on which Beneficiary relied in making its loan to Grantor. Grantor shall not sell or transfer all or any portion of Grantor's interest in the Property without the prior written approval of Beneficiary. If Grantor sells or transfers any interest without such approval, then the change in title shall be deemed to increase the risk of Beneficiary and shall constitute a default hereunder entitling Beneficiary to exercise any and all of its rights and remedies, including its right to accelerate the due date



of all sums secured hereby. Any transfer of the controlling interest in any partnership or corporate Grantor shall be deemed a transfer of Grantor's interest in the Property for purposes of this paragraph.

26. **Partial Reconveyance.** Should the Loan Documents allow for the partial reconveyance from the encumbrance of the Trust Deed of any portion of the Property upon the payment of a certain sum to Lender ("Partial Reconveyance"), any such partial reconveyance shall be allowed only so long as the following additional conditions are met:

26.1 **No Defaults.** Grantor is not in default hereunder or under the terms of any of the Loan Documents;

26.2 **Legally Subdivided.** The Property has been legally subdivided into parcels or lots such that both (a) the portion of the Property to be reconveyed and (b) the portion of the Property remaining subject to the Trust Deed are legally segregated properties capable of being transferred to third-party purchasers in accordance with the law;

26.3 **Access Unimpaired.** The Partial Reconveyance does not deny or unreasonably impair access to public roads and utilities for either the portion of the Property remaining subject to the Trust Deed or the portion of the Property reconveyed;

26.4 **Identification of Property.** Grantor secures all necessary services of surveyors, engineers, and other consultants of any kind or nature whatsoever required in connection with the Partial Reconveyance in order to sufficiently identify the portion of the Property to be reconveyed and to enable the Trustee to complete the Partial Reconveyance; and

26.5 **Costs.** Grantor pays all costs incurred in connection with the Partial Reconveyance; Beneficiary shall have no responsibility for such costs and shall be reimbursed by Grantor for any costs incurred by Beneficiary.

27. **Indemnification by Grantor.** Grantor agrees to indemnify and hold Beneficiary and Trustee harmless from and against any and all losses, liabilities, suits, obligations, damages, costs, and expenses, including attorneys' fees and costs, that may be imposed on, incurred or paid by, or asserted against Beneficiary or Trustee by reason or account of: (a) any action by Grantor in connection with the Property; (b) any good faith and commercially reasonable exercise of any of the rights and remedies or performance of any of the duties of Trustee or Beneficiary under any of the Loan Documents; or (c) any other liability arising in any manner in connection with the Property other than as a result of the gross negligence or willful misconduct of Beneficiary or Trustee, and such obligation shall be secured by this Trust Deed. If any claim, action, or proceeding is brought against Beneficiary or Trustee that is the subject of the indemnity set forth in this paragraph, Grantor shall resist or defend against the same, if necessary in the name of the Trustee or Beneficiary, by attorneys for Grantor's insurance carrier or otherwise by attorneys approved by Beneficiary.

28. **Further Assurances.** Grantor, from time to time, within fifteen (15) days after request by Beneficiary, shall execute, acknowledge, and deliver to Beneficiary such additional security instruments, in form and substance satisfactory to Beneficiary, covering all property of any kind whatsoever owned by Grantor or in which Grantor has any interest which, in the reasonable opinion of Beneficiary, is essential to the operation of the Property covered by this Trust Deed, and shall execute, acknowledge, and deliver any financing statement, renewal, affidavit, certificate, continuation statement, or other document as Beneficiary may reasonably request in order to perfect, preserve, continue, extend, or maintain Beneficiary's security interests under or the priority of this Trust Deed. Grantor shall pay all costs in connection with the preparation, execution, recording, filing, and refiling of any such documents.

29. **Multiple Grantors.** If Grantor is comprised of more than one person or entity, then the term "Grantor" used herein shall refer to all such persons or entities collectively and to each such person or entity individually, such that all obligations, covenants, warranties, requirements, restrictions and other provisions of this Trust Deed shall apply both collectively and individually, and each such person or entity shall be jointly and severally liable for all obligations secured by this Trust Deed.

30. **Assignment.** Beneficiary may assign this Trust Deed in whole or in part to any person and may grant participation in any of its rights under the Trust Deed without notice and without affecting Grantor's liability under this Trust Deed. In connection with any proposed assignment, participation, or similar arrangements, Beneficiary may make available to any person all credit and financial data furnished or to be furnished to Beneficiary by Grantor or any guarantor under the Loan Documents. Grantor may not assign the Trust Deed to any person at any time, except in connection with a transaction approved in writing by Beneficiary under the terms of this Trust Deed. Subject to such prohibitions against Grantor's assignment, this Trust Deed shall inure to the benefit of and bind all of the parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors, and assigns.

31. **Construction Mortgage.** This Trust Deed secures a loan to finance the purchase or refinance of certain property and the construction of improvements thereon. The funds to be advanced by Beneficiary are to be used for purchase or refinance and construction in accordance with the terms of the applicable loan agreement. This Trust Deed secures the payment of all sums and the performance of all covenants of Grantor under the loan agreement, and the same shall be a Loan Document as the term is defined herein.

32. **Applicable Law.** This Trust Deed is made with reference to and is to be construed in accordance with the laws (without regard to the choice of law rules) of the State of Idaho.

33. **Miscellaneous.** The term Beneficiary shall mean the holder and owner, including pledgee, of the obligations secured hereby, whether or not named as Beneficiary herein. In construing this Trust Deed and whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural. This Trust Deed may be executed in two or more counterparts, all of which will constitute one and the same instrument and lien.

34. **Disclosures/Disclaimers.** Beneficiary makes the following disclosures and disclaimers in connection with this Trust Deed:

34.1 **Actions Solely for Benefit of Beneficiary.** Any and all subsequent purchasers of the Property, and any other parties acquiring an interest in the Property, are hereby put on notice that any inspection or approval of any part of any development, construction, renovation, or improvement of the Property by Beneficiary or any agent of Beneficiary shall be made exclusively for the benefit of Beneficiary, and Beneficiary makes no representations whatsoever to any third party acquiring any interest in the Property. Such third party shall have no rights of reliance upon any action taken by Beneficiary. Beneficiary makes no representations whatsoever to any third party as to the adequacy or legality of any action of Grantor and any action of Beneficiary is solely for the benefit of Beneficiary.

34.2 **Adjustable Rate Note.** The Note contains provisions permitting (a) increases and decreases in the rate of interest provided in the Note, and (b) increases and decreases in the periodic payments required under the Note.

DATED as of the day and year first above written.

GRANTOR/DEBTOR:

Cascade Builders-Developers Inc.

By Stuart Rudorfer Pres  
Stuart Rudorfer  
Its Member

\_\_\_\_\_  
  
\_\_\_\_\_

STATE OF IDAHO

COUNTY OF Ada

ss.

On the 19 day of June, in the year 1999, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Timothy D. [unclear] known or identified to me to be the President of the Corporation that executed the within instrument or the person who executed the within instrument on behalf of said Corporation and acknowledged to me that such President executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year first above written.



Karen L. Bryan  
Printed Name Karen L. Bryan  
NOTARY PUBLIC in and for the State of Idaho,  
residing at Boise, ID  
My Commission Expires 6-12-2003

STATE OF IDAHO

COUNTY OF \_\_\_\_\_

ss.

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 199\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared \_\_\_\_\_ known or identified to me to be the person[s] whose name[s] is/are subscribed to the within instrument and acknowledged to me that \_\_\_\_\_ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year first above written.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Idaho,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

EXHIBIT "A"

Lot 3, Block 125, GRIFFITH AND KING'S ADDITION to Nampa, Canyon  
County, Idaho, according to the plat filed in Book 1 of Plats, Page  
10, records of Canyon County, Idaho.

9720569

RECORDED

'97 JUN 26 PM 4 00

RED J KERR

CANYON CNTY RECORDER

BY

*U. Chas.*

RECEIVED - NANTA

REQUEST

TYPE *WIT. D. J. T. W. E.* *48*

Note Number: 156562      001 Borrower: CASBLD Cascade Builders-Developers  
 Status: U      Line of Credit: 001 Cascade Bld-Dev borrowing li

Application: 06/20/97 Approval: 06/24/97 Close: 06/26/97 Commit#  
 Note Date: 06/18/97 Maturity: 06/27/98 Quote: / / Payoff: / /

Revolving: N Renewals: 0 In Default: N Non-Accrual: N

	Amount	Drawn	Available
Commitment:	\$ 52,000.00	\$ 52,000.00	\$ 0.00
	Paydowns:	\$ 0.00	
	Principal Balance:	\$ 52,000.00	

	Amount	Drawn	Available
Deposit:	\$ 0.00	\$ 0.00	\$ 0.00
Escrow:	\$ 0.00	\$ 0.00	\$ 0.00
Eq. Deposit:	\$ 0.00	\$ 0.00	\$ 0.00
Eq. Escrow:	\$ 0.00	\$ 0.00	\$ 0.00
Outside:	\$ 0.00	\$ 0.00	\$ 0.00
FASB Fees:	\$ -29.20	\$ -29.20	\$ 0.00
Est. Costs:	\$ 52,000.00	Const. Amt:	\$ 2,026.33

Int. Rate: 9.0000% Effective: 06/18/97 Avg Daily Bal.: \$ 52,000.00

Last Billing Period Ended: 10/31/98 Princ. Bal. Last BPE: \$ 52,000.00

Interest Information-

	Total Billed	Total Booked	Accrual Amount	Accruals thru / /	Accrual Booked
Interest	6,577.28	6,577.28	0.00		0.00

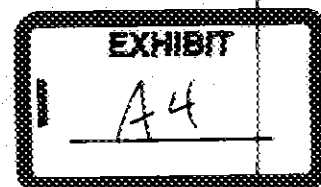
	NUMBER OF DAYS PAST DUE				
	1 - 29	30 - 59	60 - 89	90 - 119	120 +
Billed	808.49	419.56	419.56	0.00	68.89
Booked	808.49	419.56	419.56	0.00	68.89
Unbooked	0.00	0.00	0.00	0.00	0.00

Total Interest Billed: 6,577.28  
 Total Interest Paid: 4,860.78  
 Total Interest Due: \$ 1,716.50

Interest Billed and Unbooked: 0.00

Due This Month: 402.46 Due Prev Month: 406.03

Oldest Interest Receivable Unpaid: 06/01/98



The Construction Lender v6.6.0  
 Copyright 1986-98 by CheckFree Software Solutions  
 Report Title: Query - Transaction History Listing  
 Effective dates from / / to / / .  
 Includes all transaction codes

Date: 10/30/98

Time: 14:16:03

Page: 1

Borrower: CASBLD Cascade Builders-Developers Inc

Note: 156562 001 2017 N MIDLAND BLVD LOT 3, BK 125 GRIFFITH & KINGS

Note Date: 06/18/97 Maturity Date: 06/27/98 Committed Amount: 52,000.00 Principal Balance: 52,000.00

Effective Date	Input Date	Transaction Memo	Tran Code	Tran Code Desc	Transaction Amount	Check Number
12/01/97	12/01/97	Conversion Receivable Pymt	2020	Interest Payment - Wire	1,654.51	
12/01/97	12/01/97	ADV. FROM COMMIT	6000	Description not found in Tran Table	52,000.00	
12/01/97	12/01/97	NEW LOAN COM-AMT	6000	New Loan Commitment	52,000.00	
12/01/97	12/01/97	Interest Paid YTD	9600	Interest Receivable	1,654.51	
12/01/97	12/01/97	Conversion Interest	9600	Interest Receivable	405.90	
12/16/97	12/19/97	LATE FEE	9700	Late Fee Receivable	20.30	
12/23/97	12/23/97	Conversion Inters (Payment)	2010	Interest Payment - Check	405.90	5932
12/31/97	12/31/97	INTEREST BILLING - PERIOD END	9600	Interest Receivable	419.56	
01/01/98	01/13/98	unam 1/f	4120	Loan Fee Posting (To Be Amortized)	29.20	
01/16/98	01/16/98	LATE FEE	9700	Late Fee Receivable	20.98	
01/20/98	01/20/98	INTEREST (PAYMENT)	2010	Interest Payment - Check	419.56	2774
01/31/98	01/31/98	PASE FEE (EARNED)	4110	Loan Fee Monthly Amortization	5.84	
01/31/98	01/31/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	419.56	
02/16/98	02/16/98	LATE FEE	9700	Late Fee Receivable	20.98	
02/17/98	02/17/98	INTEREST BILLING (Payment)	2010	Interest Payment - Check	409.56	6094
02/17/98	02/17/98	INTEREST BILLING (Payment)	2010	Interest Payment - Check	10.00	6097
02/28/98	03/01/98	PASE FEE (EARNED)	4110	Loan Fee Monthly Amortization	5.84	
02/28/98	03/01/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	378.96	
03/15/98	03/16/98	Int pymt (PAYMENT)	2010	Interest Payment - Check	378.96	6168
03/31/98	03/28/98	PASE FEE (EARNED)	4110	Loan Fee Monthly Amortization	5.84	
03/31/98	03/28/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	419.56	
04/15/98	04/15/98	Int. Payment (PAYMENT)	2010	Interest Payment - Check	419.56	6227
04/30/98	05/01/98	PASE FEE (EARNED)	4110	Loan Fee Monthly Amortization	5.84	
04/30/98	04/28/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	406.03	
05/14/98	05/14/98	Int. Payment (PAYMENT)	2010	Interest Payment - Check	274.88	6259
05/14/98	06/17/98	Int. Payment (PAYMENT) ADJ.	2030	Interest Payment - Jrnl/PO	68.89	
05/14/98	05/27/98	Int. Payment (PAYMENT) ADJ.	2030	Interest Payment - Jrnl/PO	62.26	
05/14/98	05/14/98	Int. Payment (PAYMENT)	8750	Late Charge Payment - Check	20.98	6259
05/14/98	05/14/98	Int. Payment (PAYMENT)	8750	Late Charge Payment - Check	20.30	6259
05/14/98	05/14/98	Int. Payment (PAYMENT)	8750	Late Charge Payment - Check	20.98	6259
05/14/98	05/27/98	REV LT CHG PYMT ADJ.	8760	Late Charge Payment - Jrnl/PO	20.30	
05/14/98	05/27/98	REV LT CHG PYMT ADJ.	8760	Late Charge Payment - Jrnl/PO	20.98	
05/14/98	05/27/98	REV LT CHG PYMT ADJ.	8760	Late Charge Payment - Jrnl/PO	20.98	
05/31/98	06/01/98	PASE FEE (EARNED)	4110	Loan Fee Monthly Amortization	5.84	
05/31/98	05/27/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	419.56	
06/16/98	06/16/98	LATE FEE	9700	Late Fee Receivable	20.98	
06/17/98	06/17/98	INTEREST BILLING (Payment)	2010	Interest Payment - Check	419.56	6323
06/17/98	06/17/98	INTEREST BILLING (Payment) ADJ.	2030	Interest Payment - Jrnl/PO	68.89	
06/30/98	06/28/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	406.03	
07/16/98	07/16/98	LATE FEE	9700	Late Fee Receivable	20.30	
07/22/98	07/22/98	Int. payment (PAYMENT)	2010	Interest Payment - Check	406.03	6354
07/31/98	07/29/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	419.56	
08/16/98	08/16/98	LATE FEE	9700	Late Fee Receivable	20.98	

Effective Date	Input Date	Transaction Memo	Tran Code	Tran Code Desc	Transaction Amount	Check Number
08/31/98	08/26/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	419.56	✓
09/16/98	09/16/98	LATE FEE	9700	Late Fee Receivable	20.98	
09/30/98	09/30/98	Prime Rate Change		Interest rate 9.2500	0.00	
09/30/98	09/27/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	406.03	✓
10/16/98	10/16/98	Prime Rate Change		Interest rate 9.0000	0.00	
10/16/98	10/16/98	LATE FEE	9700	Late Fee Receivable	20.30	
10/30/98	09/30/98	INTEREST BILLING ADJUSTMENT	9600	Interest Receivable	( 0.36)	
10/31/98	10/27/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	402.62	✓



Loan No. 156565-I

**SHORT FORM  
CONSTRUCTION LOAN AGREEMENT  
(Project Specific Conditions and Terms)**

THIS AGREEMENT dated June 18, 1997, is made by and among Cascade Builders-Developers, Inc. (collectively, if more than one individual or entity, the "Borrower"), CONTINENTAL SAVINGS BANK, d/b/a CONTINENTAL HOME LENDING CENTER, a Washington state chartered savings and loan association, ("Lender"), and any third-party general contractor signing below ("General Contractor").

**RECITALS**

Lender has agreed to lend to Borrower certain funds (the "Loan") for the purpose set forth below. The parties hereto wish to define certain of their rights and obligations with respect to the Loan and to set forth the terms and conditions of the Loan.

**AGREEMENTS**

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and in all other documents evidencing or securing the Loan, the parties hereto agree as follows:

1. Purpose. This loan is made for the purpose set forth on Exhibit A attached hereto and incorporated herein by this reference, including financing certain construction on the real property legally described on Exhibit B attached hereto (the "Property") in accordance with the plans and specifications approved by Lender (the "Plans"). The Property and the improvements to be constructed thereon in accordance with the Plans shall be referred to herein as the "Project."
2. Standard Conditions to Closing and General Loan Terms. Borrower and General Contractor acknowledge that they have received and reviewed a copy of the Standard Conditions to Closing and General Loan Terms of the revision date set forth in Exhibit A (the "Standard Conditions and Terms"). By execution and delivery of this Loan Agreement, all provisions of the Standard Conditions and Terms, except for such provisions of the Standard Conditions and Terms as are specifically excluded or modified herein or are otherwise in conflict with the provisions of the other documents evidencing, securing, or otherwise governing the Loan (together with the Loan Agreement, the "Loan Documents"), in which case, the specific terms of such documents shall apply, are hereby incorporated herein by this reference and made an integral part hereof for all purposes as though fully set forth herein and Borrower and General Contractor hereby make such covenants and agree to fully perform in accordance with the provisions of the Standard Conditions and Terms.
3. Guarantor(s). Borrower's obligations under the loan are guaranteed by each individual and/or entity listed as a guarantor on Exhibit A.
4. Loan Amount. See Exhibit A.
5. Loan Fee. In consideration for Lender's agreement to make the Loan, Borrower shall pay Lender a non-refundable Loan Fee in the amount set forth on Exhibit A. The Loan Fee shall be due and payable in full whether or not the Loan ever closes. Borrower shall pay the Loan Fee from the proceeds of

the Loan unless the Loan fails to close, in which case the Loan Fee shall be due and payable directly by Borrower on the next day following the Deadline For Closing set forth on Exhibit A.

6. Loan Term.

6.1 Initial Term. The initial term of the Loan shall be that period of time set forth on Exhibit A and shall commence upon the date of the first disbursement by Lender of proceeds of the Loan (the "Funding Date").

6.2 Extended Term. So long as Borrower is in full compliance with the terms and conditions of this Agreement and of all other documents evidencing or securing the Loan, Borrower may elect to extend the term of the Loan as set forth on Exhibit A. Borrower shall provide Lender with written notice of Borrower's election to extend not later than thirty (30) days prior to the expiration of the Initial Term or any prior extended term and, at the time of such notice, shall pay Lender an extension fee for each such extension that is that percent set forth on Exhibit A of the Lot Amount, also set forth on Exhibit A, for each lot comprising the Property that remains subject to Lender's deed of trust.

7. Interest Rate. Interest shall accrue on the outstanding principal balance of the Loan at a per annum interest rate (the "Note Rate") that is that percent set forth on Exhibit A above the interest rate announced from time to time as the large business prime lending rate of Bank of America NW, N.A., doing business as SeaFirst Bank, or such other lending institution as Lender shall select prior to the Funding Date (the "Prime Rate"). The Note Rate shall be adjusted automatically from time to time as of the effective date of any change in the Prime Rate.

7.1 Default. Upon the occurrence of any Event of Default as defined in the Standard Conditions and Terms, the interest rate on the outstanding principal balance of the Loan shall increase to the greater of (a) five percent (5%) per annum above the Note Rate or (b) eighteen percent (18%) per annum.

7.2 Late Charge. Lender shall be entitled to a late charge equal to six percent (6%) of the amount of any payment not received by the fifteenth (15th) day after the day on which such payment first became due.

8. Completion of Project. The Project shall be completed in accordance with the Conditions and Standard Terms and all residences to be constructed on the Property shall be ready for occupancy within the time period following the Funding Date set forth on Exhibit A.

9. Lot Releases. Upon completion of construction of any residential lot as evidenced by the issuance of an appropriate certificate of occupancy, and in the absence of a default by Borrower on any of Borrower's obligations under this Loan Agreement, any of the other Loan Documents, or any document evidencing or securing any other loan from Lender to Borrower, Borrower shall, subject to the terms and provisions of the Deed of Trust, be entitled to a reconveyance of the Deed of Trust as against such lot upon Borrower's payment of (a) all unpaid accrued interest, fees, and expenses owing on the Loan or on any other loan from Lender to Borrower to the date of such reconveyance, and (b) an amount equal to the greater of the applicable Lot Amount set forth on Exhibit A or eighty-five percent (85%) of the gross sales price of such lot, which payments shall be credited to amounts outstanding under the applicable loans.

10. Security for the Loan. The Loan shall be secured by the Property and such additional personal and real property as is set forth in the Deed of Trust or on Exhibit A.

11. Conditions to Closing. Lender's obligation to close the Loan and make any disbursements hereunder shall be subject to the satisfaction, at Borrower's sole cost and expense, of each of the conditions to closing set forth in the Standard Conditions and Terms, together with such additional conditions to closing as may be set forth in Exhibit C attached hereto and incorporated herein by this reference, on or before the Funding Date and prior to each disbursement of proceeds of the Loan, or as otherwise required herein.

12. Additional General Loan Terms. Borrower shall fulfill any additional general loan terms set forth in Exhibit D attached hereto and incorporated herein by this reference.


13. Integration. This Agreement replaces in its entirety any previous commitment or other written or oral representation by Lender, its employees or agents relating to the Loan. This Agreement represents the final agreement between the parties and may not be contradicted by evidence of prior or contemporaneous written or oral agreements of the parties, and may not be subsequently modified except in writing executed by all parties. **PROMISES OR COMMITMENTS TO LEND MONEY OR EXTEND CREDIT IN AN ORIGINAL PRINCIPAL AMOUNT OF \$50,000 OR MORE BY A PERSON ENGAGED IN THE BUSINESS OF LENDING MONEY OR EXTENDING CREDIT MUST BE IN WRITING.**

I/We, the undersigned Borrower, have read this Agreement, including the related Standard Conditions and Terms, and understand and agree to all its provisions. I/We have been advised of our option to consult legal counsel regarding this and all other Loan Documents.

DATED as of the day and year first above written.

LENDER:

CONTINENTAL SAVINGS BANK, d/b/a  
CONTINENTAL HOME LENDING CENTER,  
a Washington state chartered savings  
and loan association

By  \_\_\_\_\_  
Its Vice President

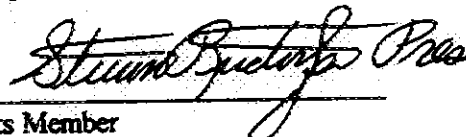
Address:

2000 Two Union Square  
601 Union Street  
Seattle, WA 98101-2326

BORROWER:

[Corporate Borrower]

Cascade Builders-Developers,  
a Corporation

By  \_\_\_\_\_  
Its Member

[Individual Borrower]

\_\_\_\_\_  
Stuart Rudorfer

Borrower Address:

2017 N. Midland Blvd. Nampa, ID. 83651

## SCHEDULE OF EXHIBITS

EXHIBIT A: Basic Loan Terms

EXHIBIT B: Legal Description

EXHIBIT C: Additional Conditions to Closing

EXHIBIT D: Additional General Loan Conditions

EXHIBIT E: Cost Breakdown

## AGREEMENT OF THIRD-PARTY GENERAL CONTRACTOR

General Contractor signs this Agreement not as a borrower or guarantor but only to acknowledge General Contractor's agreement to perform the obligations of General Contractor set forth herein and in the Standard Conditions and Terms incorporated herein by reference.

DATED this       day of       , 19      

GENERAL CONTRACTOR:

[Corporate General Contractor]

\_\_\_\_\_

a

By \_\_\_\_\_  
Its

[Individual General Contractor]

\_\_\_\_\_

\_\_\_\_\_

Address of General Contractor:

EXHIBIT A**BASIC LOAN TERMS**  
(Construction Loan--Idaho)

1. Loan No.: 156565-I
2. Short Statement of Purpose of Loan: To purchase, rehab and sell properties
3. Borrower(s): Cascade Builders-Developers, Inc.
4. General Contractor (if other than Borrower(s)): N/A
5. Guarantor(s): Stuart Rudorfer
6. Legal Description of Property: See Exhibit B.
7. Street Address of Property: 613 Lake Lowell Avenue, Nampa, ID. 83686
8. Loan Amount: \$63,600.00
9. Maximum Loan-to-Value Ratio: 80%
10. Loan Fee: \$795.00; 1.250% of Loan Amount
11. Interest Rate: 1% above the Prime Rate
12. Loan Term:
  - A. Initial Loan Term: 12 months
  - B. Extension of Loan Term:
    1. Number of Extensions Allowed: 1
    2. Length of Each Extension Period: 6 months
    3. Extension Fee: 1.50%
13. Time to Complete Project: complete now
14. Portion of Loan Amount Available for Each Lot/Minimum Amount Required for Lot Releases ("Lot Amount"):

By Lot:

N/A	\$N/A
	\$
	\$

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Exhibit A--page 1 of 2

S  
S

15. Cash Contribution by Borrower: \$15,900.00
16. Minimum Amount of General Casualty Insurance: \$63,600.00
17. Maximum Number of Unsold Residences Completed or Under Construction: 5
18. Additional Security:
19. Revision Date of Standard Conditions to Closing and General Loan Terms: \_\_\_\_\_
20. Additional Conditions to Closing: See Exhibit C.
21. Additional General Loan Terms: See Exhibit D.
22. Deadline for Closing: 06/24/97

## USE OF THIS EXHIBIT

	Date:	Initials of Borrower(s)
Loan Application:	<u>6/19/97</u>	<u>SR</u>
Commitment Letter:	<u>6/19/97</u>	<u>SR</u>
Loan Agreement:	<u>6/19/97</u>	<u>SR</u>

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Exhibit A—page 2 of 2

## EXHIBIT "B"

See Attached

**J-U-B**

Project: 10952  
Date: May 27, 1997

**J-U-B ENGINEERS, Inc.**  
ENGINEERS • SURVEYORS • PLANNERS

212 Tenth Avenue South

Nampa, ID 83653

208/467-5253

FAX: 208/467-5631

DESCRIPTION FOR  
CASCADE BUILDERS-DEVELOPERS, INC.  
**PARCEL B**  
A PORTION OF THE NE 1/4 NW 1/4, SECTION 33,  
T.3N., R.2W., B.M.,  
NAMPA, CANYON COUNTY, IDAHO

A portion of the NE 1/4 NW 1/4, Section 33, T.3N., R.2W., B.M., Nampa, Canyon County, Idaho, more particularly described as follows:

Commencing at a found bass cap monument marking the northeast corner of the NW 1/4 of said Section 33 (north 1/4 corner);

thence N. 89°20'45" W. 160.02 feet along the northerly boundary line of the NW 1/4, Section 33, said line also being the center line of Lake Lowell Avenue to a point;

thence leaving said northerly boundary line of the NW 1/4 of said Section 33, S. 00°14'55" E. 40.00 feet to a set 5/8 inch iron pin on the southerly right-of-way line of said Lake Lowell Avenue, THE TRUE POINT OF BEGINNING;

thence continuing S. 00°14'55" E. 132.95 feet to a set 5/8 inch iron pin;

thence S. 89°45'05" W. 129.96 feet to a set 5/8 inch iron pin;

thence N. 00°14'55" W. 32.00 feet to a set 5/8 inch iron pin;

thence N. 89°45'05" E. 23.00 feet to a set 5/8 inch iron pin;

thence N. 43°29'23" E. 67.94 feet to a set 5/8 inch iron pin;

thence N. 00°14'55" W. 52.81 feet to a set iron pin on said southerly right-of-way line of Lake Lowell Avenue;

thence S. 89°20'45" E. 60.00 feet along said southerly right-of-way line of Lake Lowell Avenue to the Point of Beginning.

Containing 0.26 acres, more or less.





**ADJUSTABLE RATE PROMISSORY NOTE**  
(Idaho)

\$63,600.00 (U.S.)  
Loan No. 156565-I

June 17, 1997  
Boise, Idaho

FOR VALUE RECEIVED, the undersigned, Cascade Builders-Developers Inc. (collectively, if more than one individual or entity, the "Borrower"), promise(s) to pay to the order of CONTINENTAL SAVINGS BANK, d/b/a CONTINENTAL HOME LENDING CENTER, a Washington state chartered savings bank, ("Lender") at 2000 Two Union Square, 601 Union Street, Seattle, Washington 98101-2326, or such other place as Lender may from time to time designate in writing, the sum of sixty three thousand, six hundred Dollars (\$63,600.00), or so much thereof as may from time to time be disbursed hereunder, in lawful money of the United States of America, together with interest on the unpaid principal balance from time to time outstanding hereunder from the date of this Note until paid at the rate set forth below.

1. Interest Rate.

1.1 Prime Rate. As used herein, the term "Prime Rate" shall mean the large business prime lending rate of interest publicly announced from time to time by Bank of America NW, N.A., doing business as Seafirst Bank ("Seafirst"). If at any time Seafirst ceases to publish or establish such a prime lending rate, there shall be substituted therefor the prime lending rate published by such other national bank with offices in Seattle, King County, Washington, as may be selected by Lender.

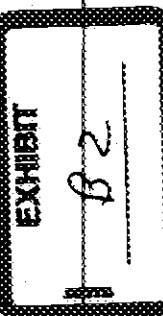
1.2 Note Rate. Interest shall accrue on the unpaid principal balance from time to time outstanding hereunder at an annual interest rate of one percent (1%) above the Prime Rate (the "Note Rate").

1.3 Default Rate. Should Borrower default in the payment of any installment of principal or interest when due hereunder or if Borrower defaults in the observance or performance of any other obligation hereunder or under any loan agreement or other written instrument evidencing, securing, or otherwise governing this loan (collectively the "Loan Documents"), interest shall accrue hereunder from the date of such default at an annual interest rate equal to the greater of five percent (5%) per annum above the Note Rate or eighteen percent (18%) per annum (the "Default Rate"). After the entire principal amount of the loan evidenced hereby shall become due and payable, whether by acceleration, at maturity, or otherwise, this Note shall bear interest at the Default Rate.

1.4 Computation of Interest. Interest shall be computed on the basis of a 365-day year and accrue on the basis of the actual number of days (including the first day but excluding the last day) occurring during the term of this Note, including any extensions thereof.

2. Loan Term.

2.1 Initial Term. The term of the Note shall be twelve (12) months and shall commence upon the date of the first disbursement by Lender hereunder (the "Funding Date").



2.2 Extended Term. So long as Borrower is in full compliance with the terms and conditions of this Note and of all of the other Loan Documents, Borrower may elect to extend the term of this Note for up to one (1) additional period(s) of up to six (6) months each. Borrower shall provide Lender with written notice of Borrower's election to extend not later than thirty (30) days prior to the expiration of the initial term or any prior extended term and, at the time of such notice, shall pay Lender an extension fee for each such extension in the amount set forth in the Loan Documents.

3. Repayment.

3.1 Monthly Payment. Accrued interest on the unpaid principal balance outstanding hereunder shall be paid monthly commencing on the first day of the first month following the Funding Date and continuing on the first day of each succeeding month for the full term of this Note, including any extensions thereof.

3.2 Late Charge. In the event that any installment payment of interest due hereunder shall not be paid within fifteen (15) days of the date it is due, Borrower shall pay, in addition to the delinquent payment, a late charge of six cents (\$.06) for each dollar so overdue in order to defray the expense incident to handling such delinquent payment. Such late charge represents the reasonable estimate of Lender and Borrower of a fair average compensation for the costs incurred by Lender due to Borrower's failure to make timely payments. Such late charge shall be paid without prejudice to the right of Lender to collect any other amounts required to be paid hereunder, including, without limitation, interest at the Default Rate as provided in paragraph 1.3 above, or to declare a default hereunder or under any of the other Loan Documents.

3.3 Maturity. The entire outstanding principal balance of the Note and all unpaid accrued interest and other amounts owing under the Note shall be due and payable in full upon the expiration of the Loan Term.

4. Joint and Several Liability. The liability hereunder of all individuals and entities comprising Borrower shall be joint and several.

5. Prepayment. Borrower may prepay Borrower's obligations under this Note in full or in part at any time or from time to time without premium or penalty.

6. Application of Payments. Payments received by Lender from Borrower may be applied, at the sole discretion of Lender, in any order to any amounts due and owing hereunder or under any of the other Loan Documents.

7. Acceleration. Upon Borrower's failure to pay any amount payable hereunder as and when due or upon the occurrence of any other default under this Note or under any of the other Loan Documents, Lender may declare, at its sole option and without notice to any party, the entire indebtedness evidenced hereby immediately due and payable in full. Failure to exercise this option or any other right Lender may have shall not constitute a waiver of the right to exercise such option or any other right in the event of any subsequent default.

8. Costs and Fees of Collection. Borrower and every other person or entity at any time liable for the payment of the indebtedness evidenced hereby shall also be liable for all costs, expenses, and fees

incurred by Lender in collecting any amounts owing hereunder, including reasonable attorney's fees. Any judgment recovered by Lender shall bear interest at the Default Rate.

9. Waiver of Presentment. Borrower and every other person or entity at any time liable for the payment of the indebtedness evidenced hereby waive diligence, demand, presentment for payment, notice of protest, and notice of nonpayment of this Note. Every such person or entity further consents to any extension of the time of payment hereof or other modification of the terms of payment of this Note, the release of all or any part of the security for this Note, or the release of any party liable for the payment of the indebtedness evidenced hereby at any time and from time to time for any reason whatsoever. Any such extension or release may be made without notice to any of such persons or entities and without discharging their liability.

10. Security. This Note is secured by a Trust Deed, Security Agreement, Fixture Filing, and Assignment of Rents (the "Trust Deed") of even date herewith made by Borrower in favor of Lender. Borrower hereby agrees to perform and comply with all of the agreements, terms, and conditions of the Trust Deed and of all of the other Loan Documents.

11. Due on Sale. Borrower acknowledges and agrees that the obligations secured by the Trust Deed are personal to Borrower and that Borrower's personal responsibility, financial condition, and control of the property subject to the Trust Deed (the "Property") were material inducements on which Lender relied in making its loan to Borrower. Borrower shall not sell or transfer all or any portion of Borrower's interest in the Property without the prior written approval of Lender. If Borrower sells or transfers any interest without such approval, then the change in title shall be deemed to increase the risk of Lender and shall constitute a default hereunder entitling Lender to exercise any and all of its rights and remedies, including its right to accelerate the due date of all sums outstanding hereunder. Any transfer of the controlling interest in any partnership or corporate Borrower shall be deemed a transfer of Borrower's interest in the Property for purposes of this paragraph.

12. Applicable Law. This Note is made with reference to and is to be construed in accordance with the laws of the State of Idaho, without regard to that state's choice of law rules.

**NOTICE: PROMISES OR COMMITMENTS TO LEND MONEY OR EXTEND CREDIT IN AN ORIGINAL PRINCIPAL AMOUNT OF \$50,000 OR MORE BY A PERSON ENGAGED IN THE BUSINESS OF LENDING MONEY OR EXTENDING CREDIT MUST BE IN WRITING.**

DATED as the day and year first above written.

BORROWER (Entity):

BORROWER (Individual(s)):

Cascade Builders-Developers, Inc.

By

  
Stuart Rudorfer  
Its

16  
3720565  
Filed for record at request of;  
After recording, return to:

THIS SPACE RESERVED FOR  
RECORDER'S USE:

Continental Savings Bank  
Attn: Construction  
2000 Two Union Square  
601 Union Street  
Seattle, WA 98101-2326

Loan No. 156565-Y

*PM 4/2/97*  
**TRUST DEED, SECURITY AGREEMENT,  
FIXTURE FILING, AND ASSIGNMENT OF RENTS  
(IDAHO)**

THIS TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING, AND ASSIGNMENT OF RENTS (the "Trust Deed") dated June 18, 1997, is made by and among Cascade Builders-Developers Inc. (collectively, if more than one individual or entity, the "Grantor"), whose address is 2017 N Midland Blvd. Nampa, ID. 83651-1744; Pioneer Title (the "Trustee"), whose address is 100 10th Avenue South, Nampa, ID. 83651; and CONTINENTAL SAVINGS BANK, d/b/a CONTINENTAL HOME LENDING CENTER, a Washington state chartered savings bank, (the "Beneficiary"), whose address is 2000 Two Union Square, 601 Union Street, Seattle, Washington 98101-2326.

A. **Granting Clause.** For good and valuable consideration, including the indebtedness described below and the trust created hereby, Grantor hereby irrevocably grants, transfers, conveys and assigns to Trustee, *in trust, with power of sale*, for the benefit and security of Beneficiary, all of Grantor's right, title, and interest in and to that certain real property located in Canyon County, State of Idaho, more particularly described on EXHIBIT A attached hereto and incorporated herein by this reference (the "Property"); together with:

A.1 **After-Acquired Title.** Any after-acquired title of Grantor in and to the Property and in and to land lying in streets and roads adjoining the Property;

A.2 **Easements, Etc.** All access rights, easements, tenements, privileges, rights, hereditaments, and appurtenances now or hereafter belonging or in any way appertaining to the Property;

A.3 **Rents.** The rents, issues, profits, royalties, income, and other benefits derived from the Property;

A.4 **Improvements.** All buildings, improvements, structures, fixtures, and articles of property now or hereafter erected on, attached to, located on, or used or intended to be used in connection with the Property; and

A.5 **Additional Property and Rights.** All other property or rights of any kind or nature further set forth herein;

all of which shall be deemed to be and remain a part of the Property and not severable wholly or in any part without material injury to the freehold and shall be included in any references to the Property hereunder.

B. **Security Agreement.** This Trust Deed shall also constitute a "Security Agreement" under the Uniform Commercial Code of the State of Idaho (the "UCC") between Grantor as debtor and Beneficiary as secured party. A photographic or other reproduction of this Trust Deed is sufficient as, and may be filed as, a financing statement under Idaho Code Section 28-9-402(1). As additional security for the performance of the obligations secured hereby, Grantor further grants and conveys to Beneficiary a

security interest and a continuing lien on the following-described property and all proceeds of such property (the "Collateral"), all of which Collateral shall be deemed a part of and shall be included in any reference to the Property hereunder.

**B.1 Property in Paragraph A.** Any of the Property described in Paragraph A above that is deemed to be personal property;

**B.2 Permits, Plans, and Contracts.** All of Grantor's right, title, and interest in all permits, approvals, commitments, designs, plans, specifications, architectural and engineering contracts, construction contracts, surveys, appraisals, listing agreements, warranties, and any and all other work product or general intangibles relating to the Property or any part thereof and now or hereafter owned by Grantor, including, without limitation, the Permits, Contracts, and Plans as defined in paragraph 2 below and any and all rights or claims that relate to the construction of improvements on or to the Property that Grantor may have against any person or entity supplying, or who has supplied, labor, materials, or services in connection with the construction of improvements on the Property;

**B.3 Rights Under Covenants.** All of Grantor's rights under any declarations of covenants, conditions, and restrictions recorded for the Property, including all of Grantor's rights and powers to elect or select officers and directors for any Homeowners' Association established for the Property;

**B.4 Insurance; Eminent Domain.** All of Grantor's rights under any and all contracts and policies of insurance with respect to the Property and to any and all awards made in connection with any eminent domain or condemnation proceedings, or purchases in lieu thereof, of the whole or any part of the Property;

**B.5 Rights of Sale.** All of Grantor's right, title, and interest in any contracts or agreements of sale with respect to the Property, all purchase money indebtedness to Grantor related to any sale, and any cash proceeds of such sale;

**B.6 Accounts with Beneficiary.** All accounts maintained by Grantor with Beneficiary or any subsidiary or affiliate of Beneficiary;

**B.7 Improvement, Fixtures, Etc.** All improvements, fixtures, equipment, furnishings, appliances, machinery, apparatus, goods, construction materials, and other articles of personal property owned by Grantor and now or hereafter affixed to, placed upon, or used in connection with the Property, including, but not limited to, any structures constructed on the Property, all pipes for water and sewer lines, cables, electrical wires for power systems, and construction materials, and any and all replacements and improvements thereof;

**B.8 Other Property.** Any and all other property or rights of any kind or nature further identified herein or in any UCC financing statement filed in connection herewith; and

**B.9 Proceeds.** Any and all interest and estate that Grantor or Grantor's assigns may hereafter acquire in any of the above Property and all the rents, issues, proceeds, products, and profits of such Property.

**C. Fixture Filing.** It is intended that the recording of this Trust Deed shall be effective as a "fixture filing" under Idaho Code Section 28-9-402(6) with respect to any and all fixtures included within the Collateral and all goods or personal property that are now or may hereafter become affixed to the Property, and the Trust Deed is to be filed and indexed in the real estate records not only as a trust deed, but also a fixture filing.

**D. Obligations Secured.** This Trust Deed is given for the purpose of and does secure the following obligations:

**D.1 Promissory Note.** Payment of the maximum principal amount of \$63,600.00 (or so much thereof as may have been advanced by Beneficiary from time to time), with interest, in accordance with the terms of the Adjustable Rate Promissory Note of even date herewith payable to or to the order of Beneficiary and made by Grantor (the "Note"), and all renewals, modifications, and extensions thereof, and any judgment rendered on the Note or any renewals thereof or substitutions therefor, which note will mature on 12 months from date of funding (subject to the exercise of any extension options), and such maturity date shall be the maturity date of this Deed of Trust for all purposes;

**D.2 Additional Obligations.** Payment of any further sums advanced or loaned by Beneficiary to Grantor or any of Grantor's successors or assigns, or otherwise owed by Grantor to Beneficiary, together with interest thereon, if such sums, including costs and expenses incurred by Beneficiary, are owing pursuant to this Trust Deed or any of the other documents executed by Grantor securing or otherwise relating to the Note or the loan evidenced thereby, whether executed prior to, contemporaneously with, or subsequent to this Trust Deed (this Trust Deed, the Note, and all other documents governing, securing, or otherwise relating to the Note or the loan evidenced thereby, with the exception of any Certificate and Indemnity Agreement Regarding Hazardous Substances or other environmental indemnity that by its terms is not secured hereby, are hereafter referred to collectively as the "Loan Documents"), together with interest thereon at the rate set forth in the relevant document,

**D.3 Obligations Under Loan Documents.** Performance of each agreement, term, and condition set forth or incorporated by reference in the Loan Documents; and

**D.4 Blanket Cross-Collateralization.** Every other obligation of Grantor to Beneficiary now existing or hereafter undertaken, including interest thereon at such rates as are set forth in the instruments establishing such obligations. Moreover, except as otherwise explicitly allowed by any other term of the Loan Documents establishing a right to a partial reconveyance of the Trust Deed, Beneficiary shall not be required to reconvey all or any portion of its security under the Trust Deed until all such obligations have been fully satisfied.

Grantor further covenants and agrees as follows:

1. **Assignment of Rents.** Grantor hereby assigns and transfers to Beneficiary all its rights and profits from the Property and the right, title, and interest of Grantor in and under all leases now or hereafter affecting the Property. This assignment is absolute, unconditional, and not in the nature of a security interest, it being the intention of Grantor to establish a complete and present transfer of all interests assigned hereunder with the right, but without the obligation, to collect all rents and profits of the Property. So long as Grantor is not in default hereunder, Grantor may collect assigned rents and profits as the same fall due; but, upon the occurrence of any Event of Default hereunder, all rights of Grantor to collect or receive rents and profits shall terminate. Further, all rents and profits of Grantor receivable from or in respect to the Property that Grantor shall be permitted to collect hereunder shall be received by it in trust to pay the usual and reasonable operating expenses of, and taxes upon, the Property and the sums owing Beneficiary on the obligations secured hereby. In the event of any default hereunder and the exercise by Beneficiary of its rights herein granted, Grantor agrees that payment made by tenants or occupants to Beneficiary shall be considered as though made to Grantor and in discharge of the tenants' obligations to Grantor. Nothing herein contained shall be construed as obligating Beneficiary to perform any of Grantor's covenants under any lease or rental arrangement.

2. **Assignment of Permits, Contracts, and Plans.** In addition to and without in any way derogating from the security interest granted Beneficiary in the Collateral, Grantor hereby assigns, grants,

transfers, and sets over unto Beneficiary, Grantor's right, title, and interest in, to, and under any and all permits, approvals, commitments, designs, plans, specifications, construction, architectural and engineering contracts, subcontracts, appraisals, listing agreements, and any and all other contracts for work product relating to development or construction on the Property or any part thereof, together with all amendments, modifications, supplements, revisions, and addenda thereto heretofore or hereafter prepared or executed (collectively, the "Permits, Contracts, and Plans").

**2.1 Security for Loan.** This assignment is made as additional security for the payment and performance of all of the obligations of Grantor set forth in Section D above.

**2.2 Liabilities.** Beneficiary does not assume any obligations or duties of Beneficiary under the Permits, Contracts, and Plans unless and until Beneficiary shall have been given written notice that it is exercising its right to complete or cause the completion of construction on the Property in accordance with the terms of the Loan Documents. If Beneficiary does not directly undertake to complete development or construction of the Property, Beneficiary may assign such Permits, Contracts, and Plans to, and such obligations and duties of Grantor in connection with the Permits, Contracts, and Plans shall be assumed by, the person or entity designated by the Beneficiary for the purpose of completing such development or construction, and Beneficiary shall have no liability whatsoever for the performance of any such obligations and duties.

**2.3 Representations and Warranties of Grantor.** Grantor represents and warrants to Beneficiary that:

**2.3.1 No Prior Assignments.** There have been no prior assignments of its rights, title, and interest in, to, and under the Permits, Contracts, and Plans;

**2.3.2 Authority.** Grantor has full power and authority to assign its rights, title, and interest in, to, and under the Permits, Contracts, and Plans to Beneficiary and no consents or approvals of any other person or entities are necessary in order for Grantor to validly execute, deliver, and perform this assignment;

**2.3.3 No Defaults or Modifications.** All covenants, conditions, and agreements set forth in the Permits, Contracts, and Plans have been performed as required as of the date hereof and neither Grantor nor any other party is in default thereunder. Grantor shall not amend or modify any of the terms and conditions of the Permits, Contracts, and Plans without the prior written approval of Beneficiary, nor shall Grantor assign, transfer, mortgage, or otherwise convey or encumber any of its rights, title, or interest in, to, or under the Permits, Contracts, and Plans so long as any of Grantor's obligations under the Loan Documents remain unfulfilled.

**2.4 Attorney-in-Fact.** Grantor hereby irrevocably constitutes and appoints Beneficiary as its attorney-in-fact, upon the occurrence of any defaults hereunder or under any of the other Loan Documents, to demand, receive, and enforce any and all of Grantor's rights under and with respect to the Permits, Contracts, and Plans, and to perform any and all acts with respect to the Permits, Contracts, and Plans that Beneficiary deems necessary or desirable with the same force and effect as if performed by Grantor in the absence of this assignment.

**2.5 Assignment for Security.** This assignment is for security purposes only. Beneficiary shall have no right pursuant to this assignment to enforce Grantor's rights with respect to the Permits, Contracts, and Plans until Grantor shall be in default under any of its obligations to Beneficiary pursuant to this Trust Deed or any of the other Loan Documents. On the occurrence of any such default, Beneficiary, without effecting any of its rights or remedies against Grantor under any other instrument, document, or assignment, may exercise its rights under this assignment or in any other manner permitted by

applicable law, and in addition, Beneficiary shall have and possess, without limitation, any and all rights and remedies of a secured party under the UCC or as otherwise provided by law.

2.6 Indemnity. Grantor shall indemnify and hold Beneficiary harmless from and against any and all claims, demands, liabilities, losses, lawsuits, judgments, damages, costs and expenses, including, without limitation, attorneys' fees and costs, to which Beneficiary may be exposed or which Beneficiary may incur in exercising any of its rights under this assignment.

3. Nature of Property/Remedies. Grantor and Beneficiary agree that the filing of a financing statement in the records having to do with personal property in connection with the Security Agreement provided herein shall never be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Property and all components thereof are, to the maximum extent possible, real property, subject to Beneficiary's right on default to exercise, in any manner permitted by applicable law, those remedies (a) available to Beneficiary under this Trust Deed, (b) available to Beneficiary as a secured party under the provisions of the UCC, or (c) otherwise provided for by law or available in equity. Whenever Beneficiary's security shall be deemed to include personal property, Beneficiary shall be entitled to foreclose against such property in connection with and as a part of any judicial or nonjudicial proceeding against the real property secured hereby, the parties hereby acknowledging that such foreclosure constitutes a commercially reasonable method of selling such property, or, in Beneficiary's sole discretion and as permitted by applicable law, to pursue any and all other remedies afforded a secured party under the UCC or other applicable law. In case of a default hereunder, Grantor agrees to assemble all such property and make it available to the Trustee or Beneficiary as secured party at a place to be designated by such party that is reasonably convenient to all parties.

4. Representations and Warranties. To protect the security of this Trust Deed and for the benefit of Beneficiary, Grantor does, for Grantor and for Grantor's successors and assigns, represent, covenant, warrant, and agree as follows:

4.1 Warranty of Title. That Grantor has good and marketable title to an indefeasible fee simple estate in all real property described herein subject only to such liens and encumbrances, if any, specifically described herein or otherwise accepted or approved by Beneficiary in writing; that Grantor owns all of the Property described herein free from liens, security interests, and encumbrances of any kind (other than those approved in writing by Beneficiary); that Grantor is vested with the right to convey all real property described herein to Trustee for the benefit of Beneficiary; and that no consent of other parties is required as a condition thereto. Grantor does hereby and will forever warrant and defend title to the Property herein conveyed and defend the validity and priority of the lien of this Trust Deed against the claims and demands of all persons and parties;

4.2 Compliance with Idaho Code Section 45-1502(5). That, for purposes of compliance with Idaho Code Section 45-1502(5), the Property is either (a) located within an incorporated city or village as of the date hereof or (b) does not exceed twenty acres in size; and

4.3 Commercial Instrument. That this Trust Deed is and will continue to be a commercial Trust Deed and that the proceeds of the loan secured hereby will be used for business or commercial purposes other than agricultural, timber, or grazing purposes, and not for personal, family, or household purposes.

5. Maintenance and Inspection of Improvements. Grantor shall maintain the buildings and other improvements now or hereafter located on the Property in a first-class condition and state of repair. Grantor shall not commit or suffer any waste; shall promptly comply with all the requirements of federal, state, and municipal authorities and all other laws, ordinances, regulations, covenants, conditions, and restrictions respecting the Property or the use thereof, and shall pay all fees or charges of any kind in



connection therewith. Grantor shall permit Beneficiary or its agent the opportunity to inspect the Property, including the interior of any structures, at all reasonable times. Grantor shall complete or restore promptly and in a workmanlike manner any building or improvement that may be constructed, damaged, or destroyed thereon, and pay when due all costs incurred therefor.

6. **Construction.** This Trust Deed is given to secure a construction or land acquisition and development loan. Grantor agrees to commence and complete construction or development promptly and in accordance with the terms of the Loan Documents.

7. **Alterations.** No building or other improvement on the Property shall be structurally altered, removed, or demolished without Beneficiary's prior written consent, nor shall any fixture or chattel covered by this Trust Deed and adapted to the proper use and enjoyment of the Property be removed at any time without such consent unless actually replaced by an article of equal suitability, owned by the Grantor.

8. **Hazardous Use and Materials.** Grantor shall permit no hazardous or dangerous objects, materials, or products to be located on, in, or under the Property, or to be transported to or from, or generated, stored, used, or disposed of on any portion of the Property, nor permit any hazardous or dangerous use to be made of the Property, and shall keep the Property in safe condition and in full compliance with all safety, health, and environmental statutes, ordinances, and regulations. Grantor further agrees to indemnify and hold Beneficiary, its directors, officers, agents, employees, and assigns forever harmless against any and all liability, damages, losses, costs, and expenses, including without limitation attorneys' fees and costs of suit, arising prior to any transfer of the Property pursuant to foreclosure proceedings or deed in lieu thereof, and arising directly or indirectly from any such hazardous materials or dangerous objects, materials, or products, whether or not known to Grantor.

9. **Insurance.** Grantor shall continuously maintain insurance, with premiums prepaid, on all of the Property, against loss, fire, and other hazards, casualties, and contingencies as may be required from time to time by the Beneficiary in such amounts and for such period of time, with loss payable clauses (without contribution) in favor of and in form satisfactory to Beneficiary, and shall provide Beneficiary at least thirty (30) days notice prior to the expiration of any existing insurance. All insurance shall be carried in companies approved by Beneficiary. If Grantor shall fail for any reason to procure any such insurance at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on the Property, Beneficiary may procure the same at Grantor's expense. The amount collected under any fire or other insurance policy may be applied by Beneficiary to any indebtedness secured hereby and in such order as Beneficiary may determine, or, at the option of Beneficiary, the entire amounts collected, or any part thereof, may be released to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. In the event of foreclosure of this Trust Deed or other transfer of title or assignment of the Property to Beneficiary in lieu of foreclosure, all right, title, and interest of Grantor in and to all policies of insurance required by Beneficiary shall inure to the benefit of and pass to the grantee of the Property.

10. **Payment of Liens and Taxes.** Grantor shall keep the Property free from construction liens of any kind and pay all taxes, assessments, and other charges that may be levied or assessed upon or against the Property before any part of such taxes, assessments, or other charges become past due or delinquent and promptly deliver receipts therefor to Beneficiary.

11. **Defense of Property.** Grantor shall appear in and defend any suit, action, or proceeding that might affect the value of this Trust Deed, the Trust Deed itself, or the rights and powers of Beneficiary or Trustee, including, without limitation, any condemnation or public improvement proceeding, and should Beneficiary or Trustee elect also to appear and defend any such action or proceeding, be made a party to such by reason of this Trust Deed, or elect to prosecute such action as appears necessary to preserve said value, Grantor will, at all times, indemnify from and, on demand, reimburse Beneficiary or Trustee for any

and all loss, damage, expense, or cost, including cost of evidence of title and attorneys' fees, arising out of or incurred in connection with any such suit, action, or proceeding.

12. **Beneficiary Authorized to Act.** Should Grantor fail to make any payment or to do any act as herein provided, Beneficiary or Trustee may, but without obligation to do so and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereunder: (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof; (b) commence, appear in, and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (c) pay, purchase, contest, or compromise any encumbrance, charge, or lien that in the sole judgment of Beneficiary either appears to be prior or superior to this Trust Deed; and, (d) in exercising any such power, incur any liability and expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title and reasonable attorneys' fees.

13. **Condemnation Proceeds.** In the event that all or any portion of the Property is taken under the right of eminent domain or condemnation, Beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking be paid to Beneficiary and applied by it first to any reasonable costs, expenses, and attorneys' fees, both in trial and appellate courts, necessarily paid or incurred by Beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby. Grantor further agrees, at its own expense, to take such actions and execute such instruments as shall be necessary to obtain such compensation.

14. **Actions by Trustee.** From time to time upon written request by Beneficiary, payment of fees, and presentation of this Trust Deed and the Note for endorsement (in the case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting an easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; and (d) reconvey, without warranty, all or any part of the Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters of fact shall be conclusive proof of the truthfulness thereof.

15. **Non-Waiver of Defaults.** The entering upon and taking possession of the Property, the collection of rents, issues, and profits, or the proceeds of fire and other insurance policies or compensation or awards for any kind of taking or damage of the Property, and the application or release thereof as provided in this Trust Deed shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice of default. Further, by accepting payment of any sums secured hereby after their due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare the failure to pay such sums an Event of Default.

16. **Events of Default.** Each of the following circumstances shall constitute an event of default under this Trust Deed (individually, an "Event of Default").

16.1 **Default Under Loan Documents.** Default in the performance of any agreement, term, or condition set forth or incorporated by reference in any of the Loan Documents;

16.2 **Misrepresentation.** The breach of any warranty or any material inaccuracy of any representation of Grantor contained herein or in any of the other Loan Documents;

16.3 **Default on Obligations Secured by Property.** Any failure to perform any obligation that is secured by any lien against or any interest in the Property, rights, or interests encumbered hereby or any portion thereof, regardless of whether such lien or interest is prior or subordinate to the Trust Deed, and which default or failure to perform is not cured within any applicable grace period or which in any manner threatens the lien of this Trust Deed;

**16.4 Insolvency; Bankruptcy; Receivership.** Any of the following shall occur with respect to the Property, the Grantor, or any successor to the Grantor's interest in the Property: (a) the institution of any proceeding for appointment of a receiver, liquidator, or trustee; (b) the institution of any proceeding for dissolution, liquidation, or similar relief; (c) the filing of a voluntary petition for bankruptcy or reorganization; (d) the filing of an involuntary petition for bankruptcy or reorganization that is not dismissed with sixty days; or (e) Grantor is unable to pay Grantor's debts as they become due;

**16.5 Default Under Leases.** Any default by Grantor under any lease affecting the Property, any termination of such lease, or any modification, surrender, or cancellation of such lease without Beneficiary's prior written consent;

**16.6 Cross-Default.** Any default by Grantor under any obligations of Grantor to Beneficiary now existing or hereafter undertaken;

**16.7 Adverse Change.** Any material adverse change in the Property, including, without limitation, actual or threatened removal, demolition, or impairment of the Property or any improvements thereon; or

**16.8 Impact on Use of Property.** Any impending or proposed: (a) condemnation, (b) rezone, or (c) modification or enactment of any ordinances or regulations that could materially affect any improvements on the Property or the use or value thereof.

The waiver by Beneficiary of any Event of Default shall not constitute a waiver of any other or subsequent Event of Default.

**17. Acceleration Upon Default; Additional Remedies.** Upon the occurrence of any Event of Default hereunder, Beneficiary shall be entitled to declare all obligations secured hereby immediately due and payable (without presentment, demand, protest, or notice of any kind, and without regard to the adequacy of any security for the obligations secured hereby) and, whether or not the due date of such obligations is so accelerated, to exercise the following remedies in any order and manner permitted by applicable law, in addition to any other rights or remedies provided elsewhere in any of the Loan Documents or under applicable law:

**17.1 Summary Possession.** At its option, either in person or by agent, employee, or court-appointed receiver, to take possession of the Property and continue any improvement, repair, or renovation thereof at Grantor's expense and to lease the same or any part thereof, making such alterations as it finds necessary, and to terminate in any lawful manner any lease of the Property, exercising with respect thereto any rights or options available to Grantor. In addition to all of the rights and powers customarily given to and exercised by a receiver, any receiver appointed pursuant hereto shall have all of the rights and powers granted to Beneficiary hereunder in connection with the construction or repair of, maintenance of, and collection of rents and profits in connection with the Property.

**17.2 Judicial Action.** Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof. In the case of any judicial sale of the Property, or any part thereof, the Property may be sold in one or more parcels in such manner or order as the Beneficiary, in its sole discretion, may elect.

**17.3 Non-judicial Action.** Deliver to Trustee a written declaration of default and demand for sale and a written notice of default and election to cause Grantor's interest in the Property to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the official records of the county in which the Property is located.

**17.4 UCC Remedies.** Exercise any and all remedies available to a secured party under the Idaho Uniform Commercial Code.

18. Foreclosure by Power of Sale. Should Beneficiary elect to foreclosure by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Trust Deed and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

18.1 Notice of Default – Nonjudicial Sale. Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published, and delivered to Grantor such Notice of Default and Election to Sell as then required by law and by this Trust Deed. Trustee shall, without demand on Grantor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale, at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, but subject to any statutory right of Grantor to direct the order of sale if the Property consists of several known lots or parcels. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Grantor, Trustee or Beneficiary, may purchase at such sale and Grantor hereby covenants to warrant and defend the title of such purchaser or purchasers.

18.2 Application of Sale Proceeds. After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with the sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the default rate provided in the Note; all other obligations then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto in accordance with the law.

18.3 Postponement of Sale. Trustee may postpone the sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

18.4 Request for Notice. Grantor hereby requests a copy of any notice of default and that any notice of sale hereunder, as well as any other written notifications required by other provisions hereof, be mailed to it at the address set forth in the first paragraph of this Trust Deed.

19. Foreclosure as Mortgage. Should Beneficiary elect to foreclosure this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property, Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto (including costs on appeal), including reasonable attorneys' fees (and attorneys' fees on appeal), in such amount as shall be fixed by the court. Beneficiary shall be entitled to possession of the Property during any redemption period allowed under the laws of the State of Idaho.

20. Appointment of Receiver. If an event of default shall have occurred and be continuing, Beneficiary, as a matter of right and without notice to Grantor or anyone claiming under Grantor, and without regard to the then value of the Property or the interest of Grantor therein, shall have the right, to the extent permitted by applicable law, to apply to any court having jurisdiction to appoint a receiver or receivers of the Property, and Grantor hereby irrevocably consents to such appointment and waives notice of any application therefore. Any such receiver or receivers shall have all the usual powers and duties of Beneficiary in case of entry and shall continue as such and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated.

21. **Remedies Not Exclusive.** Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers under this Trust Deed, under any Loan Document or other agreement, or under any laws now or hereafter in force, notwithstanding some or all of the said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, trust deed, pledge, lien, guaranty, assignment or otherwise. Neither the acceptance of this Trust Deed or its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be, to the extent permitted by applicable law, entitled to enforce this Trust Deed and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, or given by any of the Loan Documents to Trustee or Beneficiary, and either of them may pursue inconsistent remedies. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right.

22. **Appointment of Successor Trustee.** Beneficiary may, for any reason permitted by law, from time to time appoint a successor or successors to any Trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Trust Deed and its place of record, which, when recorded in the office of the county clerk or recorder of the county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

23. **Duties of Trustee.** Trustee accepts this trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other trust deed or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party unless such action or proceeding is brought by Trustee.

24. **Repayment of Beneficiary's Expenditures and Advances.** Grantor shall immediately pay, without demand by Beneficiary, all sums expended or advanced hereunder or under any of the other Loan Documents, and all costs incurred by Beneficiary or Trustee in enforcing or protecting their rights or interests hereunder or under any of the other Loan Documents (including, without limitation, attorneys' fees, accountants' fees, and any other costs or expenses whatsoever), with interest from the date of any such expenditure or advance at the default rate provided in the Note, and the same shall constitute advances made under this Trust Deed and repayment thereof shall be secured hereby. If Grantor fails to pay any such expenditures, advances, costs, or expenses, together with interest thereon, Beneficiary may, in addition to the other remedies provided hereunder to the extent permitted by applicable law, at its sole discretion: (a) commence an independent action against Grantor for the recovery of such sums; and/or (b) advance any undisbursed loan proceeds to pay the same.

25. **Due on Sale.** Grantor acknowledges and agrees that the obligations secured by this Trust Deed are personal to Grantor and that Grantor's personal responsibility, financial condition, and control of the Property were material inducements on which Beneficiary relied in making its loan to Grantor. Grantor shall not sell or transfer all or any portion of Grantor's interest in the Property without the prior written approval of Beneficiary. If Grantor sells or transfers any interest without such approval, then the change in title shall be deemed to increase the risk of Beneficiary and shall constitute a default hereunder entitling Beneficiary to exercise any and all of its rights and remedies, including its right to accelerate the due date

of all sums secured hereby. Any transfer of the controlling interest in any partnership or corporate Grantor shall be deemed a transfer of Grantor's interest in the Property for purposes of this paragraph.

26. **Partial Reconveyance.** Should the Loan Documents allow for the partial reconveyance from the encumbrance of the Trust Deed of any portion of the Property upon the payment of a certain sum to Lender ("Partial Reconveyance"), any such partial reconveyance shall be allowed only so long as the following additional conditions are met:

26.1 **No Defaults.** Grantor is not in default hereunder or under the terms of any of the Loan Documents;

26.2 **Legally Subdivided.** The Property has been legally subdivided into parcels or lots such that both (a) the portion of the Property to be reconveyed and (b) the portion of the Property remaining subject to the Trust Deed are legally segregated properties capable of being transferred to third-party purchasers in accordance with the law;

26.3 **Access Unimpaired.** The Partial Reconveyance does not deny or unreasonably impair access to public roads and utilities for either the portion of the Property remaining subject to the Trust Deed or the portion of the Property reconveyed;

26.4 **Identification of Property.** Grantor secures all necessary services of surveyors, engineers, and other consultants of any kind or nature whatsoever required in connection with the Partial Reconveyance in order to sufficiently identify the portion of the Property to be reconveyed and to enable the Trustee to complete the Partial Reconveyance; and

26.5 **Costs.** Grantor pays all costs incurred in connection with the Partial Reconveyance; Beneficiary shall have no responsibility for such costs and shall be reimbursed by Grantor for any costs incurred by Beneficiary.

27. **Indemnification by Grantor.** Grantor agrees to indemnify and hold Beneficiary and Trustee harmless from and against any and all losses, liabilities, suits, obligations, damages, costs, and expenses, including attorneys' fees and costs, that may be imposed on, incurred or paid by, or asserted against Beneficiary or Trustee by reason or account of: (a) any action by Grantor in connection with the Property; (b) any good faith and commercially reasonable exercise of any of the rights and remedies or performance of any of the duties of Trustee or Beneficiary under any of the Loan Documents; or (c) any other liability arising in any manner in connection with the Property other than as a result of the gross negligence or willful misconduct of Beneficiary or Trustee, and such obligation shall be secured by this Trust Deed. If any claim, action, or proceeding is brought against Beneficiary or Trustee that is the subject of the indemnity set forth in this paragraph, Grantor shall resist or defend against the same, if necessary in the name of the Trustee or Beneficiary, by attorneys for Grantor's insurance carrier or otherwise by attorneys approved by Beneficiary.

28. **Further Assurances.** Grantor, from time to time, within fifteen (15) days after request by Beneficiary, shall execute, acknowledge, and deliver to Beneficiary such additional security instruments, in form and substance satisfactory to Beneficiary, covering all property of any kind whatsoever owned by Grantor or in which Grantor has any interest which, in the reasonable opinion of Beneficiary, is essential to the operation of the Property covered by this Trust Deed, and shall execute, acknowledge, and deliver any financing statement, renewal, affidavit, certificate, continuation statement, or other document as Beneficiary may reasonably request in order to perfect, preserve, continue, extend, or maintain Beneficiary's security interests under or the priority of this Trust Deed. Grantor shall pay all costs in connection with the preparation, execution, recording, filing, and refile of any such documents.

29. **Multiple Grantors.** If Grantor is comprised of more than one person or entity, then the term "Grantor" used herein shall refer to all such persons or entities collectively and to each such person or entity individually, such that all obligations, covenants, warranties, requirements, restrictions and other provisions of this Trust Deed shall apply both collectively and individually, and each such person or entity shall be jointly and severally liable for all obligations secured by this Trust Deed.

30. **Assignment.** Beneficiary may assign this Trust Deed in whole or in part to any person and may grant participation in any of its rights under the Trust Deed without notice and without affecting Grantor's liability under this Trust Deed. In connection with any proposed assignment, participation, or similar arrangements, Beneficiary may make available to any person all credit and financial data furnished or to be furnished to Beneficiary by Grantor or any guarantor under the Loan Documents. Grantor may not assign the Trust Deed to any person at any time, except in connection with a transaction approved in writing by Beneficiary under the terms of this Trust Deed. Subject to such prohibitions against Grantor's assignment, this Trust Deed shall inure to the benefit of and bind all of the parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors, and assigns.

31. **Construction Mortgage.** This Trust Deed secures a loan to finance the purchase or refinance of certain property and the construction of improvements thereon. The funds to be advanced by Beneficiary are to be used for purchase or refinance and construction in accordance with the terms of the applicable loan agreement. This Trust Deed secures the payment of all sums and the performance of all covenants of Grantor under the loan agreement, and the same shall be a Loan Document as the term is defined herein.

32. **Applicable Law.** This Trust Deed is made with reference to and is to be construed in accordance with the laws (without regard to the choice of law rules) of the State of Idaho.

33. **Miscellaneous.** The term Beneficiary shall mean the holder and owner, including pledgee, of the obligations secured hereby, whether or not named as Beneficiary herein. In construing this Trust Deed and whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural. This Trust Deed may be executed in two or more counterparts, all of which will constitute one and the same instrument and lien.

34. **Disclosures/Disclaimers.** Beneficiary makes the following disclosures and disclaimers in connection with this Trust Deed:

34.1 **Actions Solely for Benefit of Beneficiary.** Any and all subsequent purchasers of the Property, and any other parties acquiring an interest in the Property, are hereby put on notice that any inspection or approval of any part of any development, construction, renovation, or improvement of the Property by Beneficiary or any agent of Beneficiary shall be made exclusively for the benefit of Beneficiary, and Beneficiary makes no representations whatsoever to any third party acquiring any interest in the Property. Such third party shall have no rights of reliance upon any action taken by Beneficiary. Beneficiary makes no representations whatsoever to any third party as to the adequacy or legality of any action of Grantor and any action of Beneficiary is solely for the benefit of Beneficiary.

34.2 **Adjustable Rate Note.** The Note contains provisions permitting (a) increases and decreases in the rate of interest provided in the Note, and (b) increases and decreases in the periodic payments required under the Note.

DATED as of the day and year first above written.

GRANTOR/DEBTOR:

Cascade Builders-Developers Inc.

By Stuart Rudorfer Pres  
Stuart Rudorfer  
Its Member

\_\_\_\_\_

\_\_\_\_\_



STATE OF IDAHO

COUNTY OF Ada

SS.

On the 19 day of June, in the year 1997, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Shirley Rudolph known or identified to me to be the President of the Corporation that executed the within instrument or the person who executed the within instrument on behalf of said Corporation and acknowledged to me that such President executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year first above written.



Karen L. Bryan  
Printed Name Karen L. Bryan  
NOTARY PUBLIC in and for the State of Idaho,  
residing at Boise, ID  
My Commission Expires 12-12-2003

STATE OF IDAHO

COUNTY OF \_\_\_\_\_

SS.

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 199\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared \_\_\_\_\_ known or identified to me to be the person[s] whose name[s] is/are subscribed to the within instrument and acknowledged to me that \_\_\_\_\_ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year first above written.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Idaho,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

### REQUEST FOR FULL RECONVEYANCE

The undersigned is the legal owner and holder of the Note and all other indebtedness secured by this Trust Deed. The Note, together with all other indebtedness secured by the Trust Deed, having been fully paid and satisfied, you are hereby requested and directed, upon payment to you of any sum owing to you under the terms of the Trust Deed, to cancel the Note and all other evidences of indebtedness secured by the Trust Deed, together with the Trust Deed, and to reconvey, without warranty, to the parties entitled thereto, all of the estate now held by you thereunder.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

#### BENEFICIARY:

CONTINENTAL SAVINGS BANK, d/b/a  
CONTINENTAL HOME LENDING CENTER,  
a Washington state chartered savings bank

By \_\_\_\_\_

Its \_\_\_\_\_

EXHIBIT "A"

PARCEL B:

A portion of the Northeast Quarter of the Northwest Quarter, Section 33, Township 3 North, Range 2 West, Boise Meridian, Nampa, Canyon County, Idaho, more particularly described as follows:

Commencing at a found brass cap monument marking the Northeast corner of the Northwest Quarter of said Section 33 (North Quarter corner), thence;

North 89° 20' 45" West 160.02 feet along the Northerly boundary line of the Northwest Quarter, Section 33, said line also being the center line of Lake Lowell Avenue to a point, thence;

Leaving said Northerly boundary line of the Northwest Quarter of said Section 33, South 00° 14' 55" East, 40.00 feet to a set 5/8 inch iron pin on the Southerly right-of-way line of said Lake Lowell Avenue, THE TRUE POINT OF BEGINNING, thence continuing;

South 00° 14' 55" East, 132.95 feet to a set 5/8 inch iron pin, thence;

South 89° 45' 05" West, 129.96 feet to a set 5/8 inch iron pin, thence;

North 00° 14' 55" West, 32.00 feet to a set 5/8 inch iron pin, thence;

North 89° 45' 05" East, 23.00 feet to a set 5/8 inch iron pin thence;

North 43° 29' 23" East, 67.94 feet to a set 5/8 inch iron pin, thence;

North 00° 14' 55" West 52.81 feet to a set iron pin on said Southerly right-of-way line of Lake Lowell Avenue, thence;

South 89° 20' 45" East 60.00 feet along said Southerly right-of-way line of Lake Lowell Avenue to the REAL POINT OF BEGINNING.

First American Title  
Schedule A

9720565

RECORDED

97 JUN 26 PM 3 59

REC J KERR

CANYON CNTY RECORDER

BY

*U. Chas*

REQUEST *PIONEER* NAMP

TYPE *W/10/01* FEE *40.00*

9720596

RECORDED

97 JUN 26 PM 4 12

REC'D KERR  
CANYON CNTY RECORDER  
BY U. Cherry

REQUEST PIONEER - NAMPA  
TYPE ACC-F FEE —

9720565

Note Number: 156565      001 Borrower: CASBLD Cascade Builders-Developers  
 Status: U      Line of Credit: 001 Cascade Bld-Dev borrowing li

Application: 06/20/97 Approval: 06/24/97 Close: 06/26/97 Commit#  
 Note Date: 06/17/97 Maturity: 06/27/98 Quote: / / Payoff: / /

Revolving: N Renewals: 0 In Default: N Non-Accrual: N

	Amount	Drawn	Available
Commitment:	\$ 63,600.00	\$ 63,600.00	\$ 0.00
	Paydowns:	\$ 0.00	
	Principal Balance:	\$ 63,600.00	

	Amount	Drawn	Available
Deposit:	\$ 500.00	\$ 500.00	\$ 0.00
Escrow:	\$ 0.00	\$ 0.00	\$ 0.00
Eq. Deposit:	\$ 0.00	\$ 0.00	\$ 0.00
Eq. Escrow:	\$ 0.00	\$ 0.00	\$ 0.00
Outside:	\$ 0.00	\$ 0.00	\$ 0.00
FASB Fees:	\$ 0.00	\$ 0.00	\$ 0.00
Est. Costs:	\$ 64,100.00	Const. Amt:	\$ 0.00

Int. Rate: 9.0000% Effective: 06/17/97 Avg Daily Bal.: \$ 63,600.00

Last Billing Period Ended: 10/31/98 Princ. Bal. Last BPE: \$ 63,600.00

#### Interest Information-

	Total Billed	Total Booked	Accrual Amount	Accruals thru /	Accrual Booked
Interest	8,118.32	8,118.32	0.00		0.00

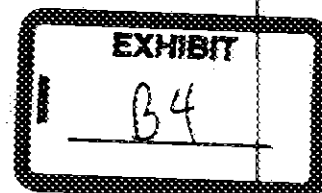
	NUMBER	OF	DAYS	PAST	DUE	
	1 - 29	30 - 59	60 - 89	90 - 119	120 +	
Billed	988.86	513.16	513.16	0.00	0.00	
Booked	988.86	513.16	513.16	0.00	0.00	
Unbooked	0.00	0.00	0.00	0.00	0.00	

Total Interest Billed: 8,118.32  
 Total Interest Paid: 6,103.14  
 Total Interest Due: \$ 2,015.18

Interest Billed and Unbooked: 0.00

Due This Month: 492.26 Due Prev Month: 496.60

Oldest Interest Receivable Unpaid: 08/01/98



The Construction Lender v6.6.0  
 Copyright 1986-98 by CheckFree Software Solutions  
 Report Title: Query - Transaction History Listing  
 Effective dates from / / to / /  
 Includes all transaction codes

Date: 10/30/98  
 Time: 14:18:25  
 Page: 1

Borrower: CASBLD Cascade Builders-Developers Inc  
 Note: 156565 001 613 LAKE LOWELL AVE NE1/4NW1/4, SEC 33  
 Note Date: 06/17/97 Maturity Date: 06/27/98 Committed Amount: 63,600.00 Principal Balance: 63,600.00

Effective Date	Input Date	Transaction Memo	Tran Code	Tran Code Desc	Transaction Amount	Check Number
11/30/97	11/30/97	Adj. to Total Est. Cost		Description not found in Tran Table	500.00	
11/30/97	11/30/97	Adj. to Deposit (Reduction)	3020	Description not found in Tran Table	( 500.00)	
12/01/97	11/30/97	Interest Reserve FROM COMMIT	1010	Line Item Disb. - Check	( 2.00)	
12/01/97	12/01/97	Conversion Receivable Pymt	2020	Interest Payment - Wire	2,097.30	
12/01/97	12/01/97	ADV. FROM DEPOSIT	6000	Description not found in Tran Table	500.00	
12/01/97	12/01/97	ADV. FROM COMMIT	6000	Description not found in Tran Table	63,602.00	
12/01/97	12/01/97	NEW LOAN DEP-AMT	6000	Description not found in Tran Table	1,000.00	
12/01/97	12/01/97	NEW LOAN COM-AMT	6000	New Loan Commitment	63,600.00	
12/01/97	12/01/97	Interest Paid YTD	9600	Interest Receivable	2,097.30	
12/01/97	12/01/97	Conversion Interest	9600	Interest Receivable	496.50	
12/18/97	12/18/97	Conversion Intere (Payment)	2010	Interest Payment - Check	496.50	2744
12/31/97	12/31/97	INTEREST BILLING - PERIOD END	9600	Interest Receivable	513.16	
01/16/98	01/16/98	LATE FEE	9700	Late Fee Receivable	25.66	
01/20/98	01/20/98	INTEREST (PAYMENT)	2010	Interest Payment - Check	513.16	2774
01/31/98	01/31/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	513.16	
02/16/98	02/16/98	LATE FEE	9700	Late Fee Receivable	25.66	
02/17/98	02/17/98	INTEREST BILLING (Payment)	2010	Interest Payment - Check	513.16	2795
02/28/98	03/01/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	463.50	
03/15/98	03/16/98	Int pymt (PAYMENT)	2010	Interest Payment - Check	463.50	2815
03/31/98	03/28/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	513.16	
04/15/98	04/15/98	Int. Payment (PAYMENT)	2010	Interest Payment - Check	513.16	2821
04/30/98	04/28/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	496.60	
05/14/98	05/14/98	Int. Payment (PAYMENT)	2010	Interest Payment - Check	51.32	6260
05/14/98	05/14/98	Int. Payment (PAYMENT)	2010	Interest Payment - Check	445.28	2848
05/14/98	05/14/98	Int. Payment (PAYMENT)	6750	Late Charge Payment - Check	25.66	2848
05/14/98	05/14/98	Int. Payment (PAYMENT)	6750	Late Charge Payment - Check	25.66	2848
05/21/98	05/27/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	513.16	
06/16/98	06/16/98	LATE FEE	9700	Late Fee Receivable	25.66	
06/17/98	06/17/98	INTEREST BILLING (Payment)	2010	Interest Payment - Check	167.76	2877
06/17/98	06/17/98	INTEREST BILLING (Payment)	2010	Interest Payment - Check	345.40	6322
06/30/98	06/28/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	496.60	
07/16/98	07/16/98	LATE FEE	9700	Late Fee Receivable	24.83	
07/22/98	07/22/98	Int. payment (PAYMENT)	2010	Interest Payment - Check	496.60	6356
07/31/98	07/29/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	513.16	
08/16/98	08/16/98	LATE FEE	9700	Late Fee Receivable	25.66	
08/31/98	08/26/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	513.16	
09/16/98	09/16/98	LATE FEE	9700	Late Fee Receivable	25.66	
09/30/98	09/30/98	Prime Rate Change		Interest rate 9.2500	0.00	
09/30/98	09/27/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	496.60	
10/16/98	10/16/98	Prime Rate Change		Interest rate 9.0000	0.00	
10/16/98	10/16/98	LATE FEE	9700	Late Fee Receivable	24.83	
10/30/98	09/30/98	INTEREST BILLING ADJUSTMENT	9600	Interest Receivable	0.43	
10/31/98	10/27/98	INTEREST BILLING - PERIOD END	9600	Interest Receivable	492.69	